

# EXHIBIT 9



**KENTUCKIANA**  
— COURT REPORTERS —

**CASE NO. 1:20-CV-4156**

**DEMETRIUS JOHNSON**

**V.**

**REYNALDO GUEVARA, ET AL.**

**DEPONENT:**

**RONALD S. MUICH**

**DATE:**

**November 15, 2023**



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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
3                   EASTERN DIVISION  
4                   HON. SARA L. ELLIS,  
5                   DISTRICT JUDGE  
6                   HON. HEATHER K. MCSHAIN,  
7                   MAGISTRATE JUDGE  
8                   CASE NO. 1:20-CV-4156  
9  
10  
11

12                   DEMETRIUS JOHNSON,  
13                   Plaintiff  
14

15                   V.  
16

17                   REYNALDO GUEVARA, ET AL.,  
18                   Defendants  
19  
20  
21  
22

23   DEPONENT:   RONALD S. MUICH  
24   DATE:        NOVEMBER 15, 2023  
25   REPORTER:   KYRA TATE

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 ON BEHALF OF THE PLAINTIFF, DEMETRIUS JOHNSON:</p> <p>3 Alyssa Martinez, Esquire</p> <p>4 Steve Art, Esquire</p> <p>5 Loevy &amp; Loevy</p> <p>6 311 North Aberdeen</p> <p>7 3rd Floor</p> <p>8 Chicago, Illinois 60607</p> <p>9 Telephone No.: (312) 243-5900</p> <p>10 E-mail: alyssa@loevy.com</p> <p>11 steve@loevy.com</p> <p>12 (Appeared via videoconference)</p> <p>13</p> <p>14 ON BEHALF OF THE DEFENDANT, REYNALDO GUEVARA:</p> <p>15 Michael Schalka, Esquire</p> <p>16 Leinenweber, Baroni &amp; Daffada, LLC</p> <p>17 120 North LaSalle Street</p> <p>18 Suite 2000</p> <p>19 Chicago, Illinois 60602</p> <p>20 Telephone No.: (866) 786-3705</p> <p>21 E-mail: mjs@ilesq.com</p> <p>22 (Appeared via videoconference)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX</p> <p>2</p> <p>3 PROCEEDINGS 6</p> <p>4 DIRECT EXAMINATION BY MS. MARTINEZ 7</p> <p>5 CROSS-EXAMINATION BY MR. BRUEGGEN 281</p> <p>6 REDIRECT EXAMINATION BY MS. MARTINEZ 288</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 Exhibit Page</p> <p>10 1 - Expert Report of Ronald S. Muich</p> <p>11 and Curriculum Vitae 24</p> <p>12 2 - Excerpt from Transcript - CCSAO 1084 66</p> <p>13 3 - Supplementary Report - June 12, 1991 -</p> <p>14 RFC-Johnson 000026-000027 70</p> <p>15 4 - Supplementary Report with Permanent</p> <p>16 Retention File Stamp - June 12, 1991 -</p> <p>17 RFC-Johnson 000040-000043 73</p> <p>18 5 - Expert Report of Thomas J. Tiderington 78</p> <p>19 6 - Photograph Impound Evidence 410 84</p> <p>20 7 - Rosa Burgos Trial Testimony -</p> <p>21 JGS_Johnson 01-310 97</p> <p>22 8 - Photograph Of Line Up of Five Shirtless</p> <p>23 Black Males - RFC-Johnson 000090 178</p> <p>24 9 - Deposition Testimony Kevin Sheehan 242</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES (CONTINUED)</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT, CITY OF CHICAGO:</p> <p>4 Theresa Berousek Carney, Esquire</p> <p>5 Rock, Fusco &amp; Connelly, LLC</p> <p>6 333 West Wacker Drive</p> <p>7 19th Floor</p> <p>8 Chicago, Illinois 60606</p> <p>9 Telephone No.: (312) 494-1000</p> <p>10 E-mail: tcarney@rfclaw.com</p> <p>11 (Appeared via videoconference)</p> <p>12</p> <p>13 ON BEHALF OF THE DEFENDANTS, JOANN HALVORSEN, JOHN</p> <p>14 HEALY, DARRYL DALEY, WILLIAM ERICKSON:</p> <p>15 David Brueggen, Esquire</p> <p>16 The Sotos Law Firm, P.C.</p> <p>17 141 West Jackson Boulevard</p> <p>18 Suite 1240A</p> <p>19 Chicago, Illinois 60604</p> <p>20 Telephone No.: (630) 735-3303</p> <p>21 E-mail: dbrueggen@jsotoslaw.com</p> <p>22 (Appeared via videoconference)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 STIPULATION</p> <p>2</p> <p>3 The VIDEO deposition of RONALD S. MUICH was taken at</p> <p>4 KENTUCKIANA COURT REPORTERS, 730 WEST MAIN STREET, SUITE</p> <p>5 101, LOUISVILLE, KENTUCKY 40202, via videoconference in</p> <p>6 which all participants attended remotely, on WEDNESDAY</p> <p>7 the 15TH day of NOVEMBER 2023 at 10:02 a.m. (CT); said</p> <p>8 deposition was taken pursuant to the FEDERAL Rules of</p> <p>9 Civil Procedure. The oath in this matter was sworn</p> <p>10 remotely pursuant to FRCP 30.</p> <p>11</p> <p>12 It is agreed that KYRA TATE, being a Notary Public and</p> <p>13 Court Reporter for the State of ILLINOIS, may swear the</p> <p>14 witness and that the reading and signing of the</p> <p>15 completed transcript by the witness is not waived.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 PROCEEDINGS</p> <p>2 THE REPORTER: We are now on record. My name</p> <p>3 is Kyra Tate. I'm the online video technician and</p> <p>4 court reporter today representing Kentuckiana Court</p> <p>5 Reporters, located at 730 West Main Street, Suite</p> <p>6 101, Louisville, Kentucky, 40202. Today is the 15th</p> <p>7 day of November 2023. The time is 10:10 a.m.</p> <p>8 Central. We're convened by video conference to take</p> <p>9 the deposition of Ronald S. Muich in the matter of</p> <p>10 Demetrius Johnson v. Reynaldo Guevara, et al,</p> <p>11 pending in the United States District Court for the</p> <p>12 Northern District of Illinois, Eastern Division,</p> <p>13 case number 1:20-CV-4156. Will everyone, but the</p> <p>14 witness, please state your appearance, how you're</p> <p>15 attending, and the location you're attending from</p> <p>16 beginning with Plaintiff's counsel?</p> <p>17 MS. MARTINEZ: Good morning. This is Alyssa</p> <p>18 Martinez representing Plaintiff Demetrius Johnson,</p> <p>19 and I'm appearing remotely from our offices in</p> <p>20 Chicago.</p> <p>21 MS. CARNEY: Theresa Carney on behalf of the</p> <p>22 City of Chicago, appearing from Chicago.</p> <p>23 MR. BRUEGGEN: Dave Brueggen on behalf of the</p> <p>24 defendant officers, except for Guevara, appearing</p> <p>25 remotely with the witness from the city of Chicago.</p>	<p style="text-align: right;">Page 8</p> <p>1 our deposition today. First, to the best of your</p> <p>2 ability, please try to give verbal answers. It's hard</p> <p>3 on the record to reflect head nods and head shakes; does</p> <p>4 that sound good?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Okay. And at times, your counsel may object.</p> <p>7 Unless you're instructed not to answer, please answer</p> <p>8 the question; does that sound good?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Let's -- to the best of our ability, let's try</p> <p>11 to talk one at a time just so we can have a clean</p> <p>12 record. I won't cut you off and I ask that you let me</p> <p>13 finish my question before you respond; does that sound</p> <p>14 good?</p> <p>15 A. Understood.</p> <p>16 Q. If at any point you need a break, please feel</p> <p>17 free to ask and we can take one. I only ask that it</p> <p>18 doesn't happen while a question is pending; is that</p> <p>19 fair?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. If a question doesn't make sense, please let</p> <p>22 me know, or if it's confusing and I'll ask it in a</p> <p>23 different way. If you answer, I'm going to assume you</p> <p>24 understand the question; is that fair?</p> <p>25 A. Yes, ma'am.</p>
<p style="text-align: right;">Page 7</p> <p>1 MR. SCHALKA: And Michael Schalka on behalf of</p> <p>2 Defendant Guevara, appearing remotely from Chicago.</p> <p>3 THE REPORTER: Thank you. Mr. Muich, will you</p> <p>4 please state your full name for the record?</p> <p>5 THE WITNESS: Yes. Ronald S. Muich, M as in</p> <p>6 Mary, U-I-C-H.</p> <p>7 THE REPORTER: Thank you. And before we did go</p> <p>8 on record, Counsel agreed to stipulate that the</p> <p>9 witness is in fact Ronald S. Muich?</p> <p>10 THE WITNESS: Correct.</p> <p>11 MR. BRUEGGEN: Agreed.</p> <p>12 THE REPORTER: Okay. Thank you.</p> <p>13 MS. CARNEY: Agreed.</p> <p>14 THE REPORTER: Mr. Muich, will you please raise</p> <p>15 your right hand? Do you solemnly swear or affirm</p> <p>16 that the testimony you're about to give will be the</p> <p>17 truth, the whole truth, and nothing but the truth?</p> <p>18 THE WITNESS: I do.</p> <p>19 THE REPORTER: You may begin.</p> <p>20 DIRECT EXAMINATION</p> <p>21 BY MS. MARTINEZ:</p> <p>22 Q. Good morning, Mr. Muich. Thank you for taking</p> <p>23 the time today. As I said, my name is Alyssa Martinez</p> <p>24 and I represent Plaintiff Demetrius Johnson in this</p> <p>25 case. First, I think I'll go over some ground rules for</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Okay. Are you under the influence of any</p> <p>2 medications or other condition that might affect your</p> <p>3 memory?</p> <p>4 A. I am not.</p> <p>5 Q. And is there anything that would prevent you</p> <p>6 from answering truthfully today?</p> <p>7 A. Nothing.</p> <p>8 Q. Okay. And right now, you currently have your</p> <p>9 report in front of you, correct, and your counsel said</p> <p>10 the other documents are going to be brought in?</p> <p>11 A. I do. I have a copy of my written report and</p> <p>12 I also have a copy of the CPD records.</p> <p>13 Q. Perfect. Okay. Thank you for that. Did you</p> <p>14 prepare for your deposition today?</p> <p>15 A. I did.</p> <p>16 Q. What did you do to prepare?</p> <p>17 A. I -- I went over documents that were sent to</p> <p>18 me. Approximately 30 hours I did review of the</p> <p>19 documents. And also via Zoom and also in person, I met</p> <p>20 with the lawyers at Sotos.</p> <p>21 MS. MARTINEZ: Okay. Quickly for the record, I</p> <p>22 want to reflect that my colleague, Steve Art, has</p> <p>23 joined the call.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. So about how many times would you say you met</p>

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1 with your attorneys?

2 A. On Zoom, I would say probably three times. And  
3 live in person, besides today, was once on Monday.

4 Q. Okay. And if you had to approximate the total  
5 time you spent -- oh, apologies. You said "30 hours."

6 How much time on Monday in person?

7 A. Roughly, if you want to include lunch, five  
8 hours.

9 Q. Okay.

10 A. Five and a half hours.

11 Q. Okay. Did you review any documents?

12 A. Yes.

13 Q. Which documents?

14 A. My report and looked at the CPD report.

15 Q. Did you speak with anyone else about your  
16 deposition?

17 A. Besides my attorneys?

18 Q. Yes.

19 A. Nobody else.

20 Q. Is there anything else you did to prepare?

21 A. Besides reviewing the documentation that was  
22 sent to me and reading my report, no.

23 Q. So I'm going to ask you a couple of questions  
24 about your background and your professional experience  
25 now. So you first joined the Rosemont Public Safety

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1 Department in 1987; is that correct?

2 A. So 1987 I became an auxiliary in Rosemont, and  
3 that was all the way through April 1, 1995, when I was  
4 hired full-time as a public safety officer.

5 Q. Okay. And when you say auxiliary, what were  
6 some of your responsibilities?

7 A. Basically, it was traffic control, which  
8 turned into indoor security for the Village, and then  
9 eventually for about, I would say five years, I was put  
10 on patrol as an auxiliary, basically in the Village  
11 area. Did tasks at the school, followed the school bus,  
12 made sure that the kids made it to and from, you know,  
13 school.

14 Q. Okay. And when you say 5 years, was that the  
15 last 5 years of that time?

16 A. That is correct. The last 5 years.

17 Q. And then where did you go after that?

18 A. So then I was hired full-time with Rosemont  
19 and then I was sent to Triton College to the police  
20 academy.

21 Q. Okay. And then after your time at the police  
22 academy, you were brought on and what were your  
23 responsibilities and duties you said?

24 A. So just to be clear, after I finished the  
25 police academy, then I attended the fire academy. In

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1 Rosemont, we are cross-trained, so we're police, fire,  
2 and then I also had to go through a semester of EMTB is  
3 basic -- basically emergency medical technician.

4 Basically, the only thing I cannot do is push drugs like  
5 a paramedic would do on a call.

6 Q. Okay. Sorry. Apologies. So after you  
7 completed that cross-training, where did you go then? Is  
8 that when you were brought on as a detective?

9 A. No, Ma'am. So after my training, I served  
10 approximately about a year on the street as a patrol  
11 officer. So basic duties of, you know, patrolling the -  
12 - the Village area, the residential area, conducting  
13 traffic stops, answered any calls that would come across  
14 during the tour of duty. And then after that year, I  
15 was placed in the firehouse for 3 years. So basically  
16 my duties were on the -- on the fire side of the  
17 department.

18 Q. Okay. And when you say that first year,  
19 approximately what year was that where you were working  
20 on the street?

21 A. Say late '95 to '96.

22 Q. Okay. So --

23 A. Because I don't know exactly when my, I  
24 apologize. I don't know exactly when my training ended,  
25 but I believe that I -- I did my EMT semester while I

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1 was on the street. I just went at nighttime.

2 Q. Okay. So then the next three years until  
3 would you say '99 is when you did your firehouse work?

4 A. Approximately '99, I believe I came back out  
5 to the street.

6 Q. Okay. So then in 1999, is that when you were  
7 brought on as a detective?

8 A. No. So from 1999, I'm sorry, from 1999 --

9 Q. No, that's --

10 A. -- to the end of 2004, December of 2004, I was  
11 on the street as a patrol officer. And if I do happen  
12 to say public safety officer, that's what we're  
13 considered, but I'll try to keep it to patrol officer,  
14 if that doesn't confuse you. And then December of 2004  
15 is when I interviewed for investigations, and that's  
16 when I was brought up to investigations, December of  
17 2004.

18 Q. Okay. So then when you were brought to  
19 investigations in 2004, you were a detective in this  
20 division until 2015, correct?

21 A. That is correct.

22 Q. Okay. And what types of cases did you work  
23 on, and if it changed throughout that time period,  
24 please include that as well.

25 A. So in Rosemont, you are a general detective,

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1 so basically you can work as a simple crime as a theft  
2 to any kind of criminal -- anything, crimes against  
3 persons, all the way up to robberies, sexual assaults,  
4 homicides. So basically there wasn't anything that we  
5 did not do. Whatever -- whatever investigation came our  
6 way is what we did. And we also did do financial  
7 crimes. So we weren't -- we weren't basically subject  
8 to just work one certain type of crime.

9 **Q. Okay. And to the best of your knowledge, if**  
10 **you had to make an estimate of potentially how many**  
11 **homicide investigations you participated in each year,**  
12 **what would you ballpark say?**

13 A. So if I could back up for a second? So in  
14 2005, I also joined a major case assistance team, which  
15 is a task force that basically investigates violent  
16 crime on the north -- on the north side. So basically,  
17 I believe there was 21 different jurisdictions in this -  
18 - in this unit. So if -- if I'm going to give you a  
19 number, I would have to say it's going to be a guess,  
20 because with my Rosemont -- the homicides we had in  
21 Rosemont and my MCAT experience with the task force, it  
22 would not be an accurate number, so I just want to make  
23 sure that you're clear on that.

24 **Q. Okay.**

25 A. So I would -- I would say with Rosemont,

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1 approximately six, that includes death investigations.  
2 And then with MCAT, we could be talking 30 to 40. But  
3 again, that number, I -- I never kept track of it. So  
4 that number is a total -- total, just an estimate on my  
5 part.

6 **Q. Okay. And when you say 30 to 40, is that what**  
7 **MCAT would participate in or is that what you, as an**  
8 **individual, would participate in?**

9 A. So let's say a town had some sort of homicide,  
10 suspicious death -- death investigation. They would  
11 call out the other investigators from the team and we  
12 would respond, and I would respond as an investigator.  
13 And I would respond, and I'm just going to throw a town  
14 out, Schaumburg. If Schaumburg called us out, we would  
15 respond to Schaumburg and then we would go to work,  
16 basically doing whatever task that we needed assisting  
17 with the detectives in Schaumburg.

18 **Q. Okay. During your time in MCAT, did you work**  
19 **in close proximity with officers from the Chicago Police**  
20 **Department?**

21 A. No.

22 **Q. And you, apologies, you said you joined MCAT**  
23 **in 2005. When did you, I think I saw that you were**  
24 **reassigned to the officer involved, deaths agent?**

25 A. Yes, that was -- yes, Ma'am, that was later

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1 on. And again, without looking at my report, I think it  
2 was in 2021. I knew I was coming up to retirement, so I  
3 -- I planned that I wanted to come off of MCAT just due  
4 to my upcoming retirement. And my supervisors at  
5 Rosemont wanted me to get involved in the officer  
6 involved death unit before I left. So I did join that  
7 unit. I was a lead on one case in Palatine. It was  
8 actually officer involved shooting/ homicide. And after  
9 that I was a supervisor in one of the officer involved  
10 deaths. And then after that, I retired on June 21,  
11 2023. So I don't know exactly when I came off of the  
12 MCAT team, but I believe it was, I think it was October  
13 or November of 2022.

14 **Q. Okay. And then switching back to your time at**  
15 **Rosemont, in 2015 you became a sergeant; is that**  
16 **correct?**

17 A. Yes. Without looking at my report with the  
18 exact date, I think it was 2015.

19 **Q. Okay. And how would you say your duties**  
20 **changed when you were promoted to sergeant?**

21 A. So basically I became a -- in a supervisory  
22 role. So instead of me getting assigned cases, I would  
23 be the one that would be assigning the cases out. I  
24 would be the one that would be reviewing the cases,  
25 basically taking care of day-to-day operations with the

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1 other detectives in the office.

2 **Q. Okay. And I believe in your report, you said**  
3 **that the focus of this unit was drugs, guns, and**  
4 **prostitution; is that correct?**

5 A. So we did have a tactical unit and their focus  
6 was guns, drugs and prostitution, which I would oversee  
7 also. It was part of my duties to oversee the tact  
8 unit. And that was also when I got promoted, you know,  
9 through the department.

10 **Q. During your time as a sergeant, approximately**  
11 **how many officers would you say you supervised?**

12 A. So we kind of rotated in and out because  
13 again, we're very unique with our public safety with  
14 police fire, so they kind of take personnel as needed.  
15 So I think at the highest manpower I ever had was, I  
16 believe I had five detectives and three tact officers.  
17 So I believe it was eight was my highest.

18 **Q. Okay.**

19 A. And again, I would have to look at my report  
20 to confirm that number eight.

21 **Q. Okay. And would you -- strike that, please.**  
22 **How many homicide investigations would you say that you**  
23 **oversaw?**

24 A. Are you saying in Rosemont?

25 **Q. Well, during your time as a sergeant. Per --**



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1 A. As a sergeant?

2 Q. Yeah.

3 A. Again, without looking at my report, because  
4 again, I -- I made the -- I went through the ranks as  
5 sergeant, lieutenant, commander and ultimately retired  
6 as a captain. So as a sergeant, and again, I'm just  
7 guessing without looking at my report, it was one or  
8 two, but I believe it was four or five that I actually  
9 supervised as a either a sergeant, lieutenant,  
10 commander, or captain. But to answer's your question as  
11 a sergeant, I cannot give you the exact answer without  
12 looking at my report.

13 Q. Okay. That's fine. And just to clarify, to  
14 make sure I'm understanding your testimony correct.

15 During your time as a sergeant, lieutenant, commander,  
16 and captain, you say you oversaw four to five homicide  
17 investigations?

18 A. Supervised four to five homicide  
19 investigations, yes. And as a detective, I was a lead  
20 on two homicide investigations.

21 Q. Okay.

22 A. So that's where I'm coming up with a number  
23 six or seven total.

24 Q. Yeah. I -- that makes sense. And then quick  
25 clarifications and then we'll be done with your

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1 professional history. From 2018 to 2020, is that  
2 approximately the time you served as lieutenant?

3 A. It sounds right. Again, I would have to look  
4 at my report to get the exact years.

5 Q. Okay. And then does 2020 to 2023 sound right  
6 as commander?

7 A. Yes. Commander and then they dissolved the  
8 rank of commander and they just -- they just switched me  
9 to a captain.

10 Q. Okay.

11 A. No reason for that, they just dissolved the  
12 rank of commander for whatever reason, I was never  
13 privileged to that information.

14 Q. Okay. Approximately, how many officers would  
15 you say work at Rosemont Public Safety Department?

16 A. On the highest and in my career there, we --  
17 we touched about 79 to 80 officers and then we were as  
18 low as 65 to 68 officers, which was on the real low end  
19 for us. And that's again, public safety, police and  
20 fire.

21 Q. Okay. And how many homicides per year would  
22 you say happened during your time? Is it the same  
23 amount that you oversaw or --

24 A. Per year? I mean, we -- I did six or seven,  
25 so it would be tough to say per year without me looking

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1 at the years and actually figuring out what the  
2 calculation to see how many that we had.

3 Q. Okay. And of those six or seven, are there  
4 any that you remember being gang-related homicides that  
5 you participated or supervised the investigation of?

6 A. Yes. There was several, I would say, at least  
7 two to three that were definitely gang related that we  
8 figured out through our investigation.

9 Q. And this is over the entire duration of your  
10 career at RPSD?

11 A. That is correct.

12 Q. And I'm going to bring up your report in a  
13 second, but would you say that your CV is accurate?

14 A. Yes, ma'am.

15 Q. And are there any relevant publications or  
16 articles to -- that would relate to your opinions that  
17 are not listed in your CV?

18 A. No, ma'am. The only thing that I did realize  
19 last night that was not in my additional training was I  
20 did attend a homicide conference in New Jersey at  
21 Princeton. And again, last night when I was reviewing  
22 my report, I realized that I did not put that in my --  
23 in my additional training, which will be updated, you  
24 know --

25 Q. Okay.

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1 A. -- late.

2 Q. When was that training?

3 A. I believe that was in 2009, 2010. I know it  
4 was the summer. It was June. It was '09 or '10. I  
5 just don't remember the exact year without looking at my  
6 certificate.

7 Q. And how long was that conference?

8 A. That was a five day conference.

9 Q. Five days. And what was the focus of the  
10 conference? What were some of the main takeaways?

11 A. So basically they brought in speakers from all  
12 over the country. You -- they talked about evidence.  
13 They talked about interviewing. They talked about  
14 suspects, offenders, crime scenes. They just -- they  
15 just kind of touched on everything. It was one of those  
16 conferences to where you can bounce from room to room.  
17 And, you know, if you found that you liked the speaker,  
18 you know, on evidence or crime scene, you -- you could  
19 just stay in there for that conference. So it was -- it  
20 was kind of a conference like that.

21 Q. Okay. And was there any session you sat in on  
22 that was related to report writing and documenting  
23 homicide investigations?

24 A. I can't recall if there was anything.

25 Q. So that's all the questions that I have about



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1 your professional experience. Have you ever been  
2 involved in a prosecution of someone you later found out  
3 was innocent? Do you think that's a problem in our  
4 justice system?

5 MR. BRUEGGEN: Object to form.

6 BY MS. MARTINEZ:

7 Q. I'll rephrase. Do you think innocent people  
8 being incarcerated for crimes they did not commit is a  
9 problem in our justice system?

10 MR. BRUEGGEN: Objection.

11 MS. CARNEY: Object to form. Foundation.

12 BY MS. MARTINEZ:

13 Q. You can answer.

14 THE WITNESS: Answer?

15 MR. BRUEGGEN: Yeah.

16 THE WITNESS: I -- I -- I really don't give it  
17 any thought. I -- through my career, I was the type  
18 of person that basically took the task at hand. If  
19 I had an investigation, if I was a lead on an  
20 investigation, if I was a supervisor in an  
21 investigation, I just focus on the -- on the -- the  
22 investigation. I don't -- I don't listen to other  
23 things. I just go according to the way I  
24 investigate, the way that I supervise and I've  
25 always done that through my career.

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1 BY MS. MARTINEZ:

2 Q. Okay. Do you believe that innocent people  
3 sometimes go to prison?

4 A. Again --

5 MR. BRUEGGEN: Object to form. Speculation --

6 MS. CARNEY: Form. Foundation.

7 BY MS. MARTINEZ:

8 Q. You can answer.

9 A. Can you repeat the question, please?

10 Q. Yes. Do you believe that innocent people  
11 sometimes go to prison?

12 MR. BRUEGGEN: Same objections. Go ahead and  
13 answer.

14 THE WITNESS: Again, I -- I don't have any  
15 opinion on that. Today I'm here to focus on this --  
16 the -- my report that I wrote, the -- the case, the  
17 documentation that I reviewed. I don't have an  
18 opinion on that.

19 BY MS. MARTINEZ:

20 Q. Are you personally aware of any law  
21 enforcement agent that has ever intentionally sent an  
22 innocent person to prison?

23 A. No.

24 MR. BRUEGGEN: Object to form. Go ahead.

25 THE WITNESS: No, I have not.

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1 BY MS. MARTINEZ:

2 Q. Did you come in into this case with a view  
3 about whether the defendant officer's investigation was  
4 reasonable?

5 MR. BRUEGGEN: Object to the form.

6 THE WITNESS: Can you repeat that question? I'm  
7 a little confused on the back end of it.

8 BY MS. MARTINEZ:

9 Q. Yes. Did you come into this case, before you  
10 reviewed any of the materials, with an opinion about  
11 whether the defendant officers in this case, their  
12 investigation was reasonable?

13 A. I --

14 MR. BRUEGGEN: Object to the form.

15 THE WITNESS: I took the documentation and I  
16 reviewed the documentation. I had no opinion on  
17 anything until I started reading my report, or I'm  
18 saying of reading the documentation --  
19 documentation, apologize, that was sent to me.

20 BY MS. MARTINEZ:

21 Q. Okay. So I'm going to bring up your report.  
22 We'll mark as Exhibit 1.

23 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

24 MR. BRUEGGEN: And Alyssa, is it okay if you  
25 use the hard copy in front of him?

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1 MS. MARTINEZ: Yes, absolutely. Feel free to -  
2 - or please do, because I think that's easier than  
3 me sharing my screen and then stopping and sharing  
4 and stopping.

5 BY MS. MARTINEZ:

6 Q. But just to make sure, would you agree that  
7 this is the report you submitted in this case?

8 A. That is the first page of, yes, first page of  
9 my report.

10 Q. Okay. And then I'm going to go to the  
11 signature block. Would you agree that this is your  
12 signature?

13 A. Yes ma'am, that is my signature.

14 Q. Okay. And you would agree that the date you  
15 issued your report was October 13, 2023?

16 A. That is correct.

17 Q. Okay. And all of the opinions you intend to  
18 offer in this case are contained within this report is  
19 that correct?

20 A. That is correct.

21 Q. Okay. And did you arrive at opinions prior to  
22 issuing your report and choose to not exclude them from  
23 this report? Or apologies, sorry, let me rephrase that.  
24 Did you come to any opinions in this case before issuing  
25 this report that you chose to exclude?

<p style="text-align: right;">Page 26</p> <p>1 MR. BRUEGGEN: Object to the form and privilege</p> <p>2 to the extent you're trying to figure out the report</p> <p>3 writing process. So if you can rephrase it. Don't</p> <p>4 answer that as phrased.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Yes. Are there -- excluding any conversations</p> <p>7 on strategy or substance that you had with the attorneys</p> <p>8 in this case, was there anything -- any opinion that you</p> <p>9 came to during your review that you decided to not put</p> <p>10 in this report?</p> <p>11 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>12 THE WITNESS: So I received the documentation.</p> <p>13 I reviewed the documentation. My report is based on</p> <p>14 a documentation that I reviewed and read. Some</p> <p>15 cases, some documentation I've reviewed several</p> <p>16 times and came to the conclusion in my report that</p> <p>17 is in front of me right now on the screen.</p> <p>18 BY MS. MARTINEZ:</p> <p>19 Q. Okay. Then I'm going to scroll one more time</p> <p>20 before I take this down. Addendum B on page B-1 of your</p> <p>21 report lists the materials you reviewed, correct?</p> <p>22 A. That is correct.</p> <p>23 Q. Are these all the materials that you relied</p> <p>24 upon in arriving at the opinions expressed in your</p> <p>25 report?</p>	<p style="text-align: right;">Page 28</p> <p>1 the advice of your Counsel?</p> <p>2 A. My Counsel is advising of me not to answer</p> <p>3 that question, so I will not answer that question.</p> <p>4 MR. BRUEGGEN: For the record, the objections,</p> <p>5 attorney work product, it goes beyond what's allowed</p> <p>6 to be done at -- under Rule 26(a)(2).</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. Okay. Did you type this report in its</p> <p>9 entirety?</p> <p>10 MR. BRUEGGEN: Object to form. And --</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. You can answer. Apologies.</p> <p>13 MR. BRUEGGEN: And then same objection to the</p> <p>14 extent you're trying to figure out what, you know,</p> <p>15 was done as far as creating a report, which you're</p> <p>16 not allowed to find out under the rules. So same</p> <p>17 objection. So don't answer it. Maybe it could be</p> <p>18 rephrased?</p> <p>19 BY MS. MARTINEZ:</p> <p>20 Q. Okay. On the advice of your Counsel, are you</p> <p>21 refusing to answer this question?</p> <p>22 A. My Counsel is advising me not to answer that</p> <p>23 question, the last question you asked, so I will not be</p> <p>24 answering that question.</p> <p>25 MS. MARTINEZ: Okay. And I am going to ask</p>
<p style="text-align: right;">Page 27</p> <p>1 A. That is correct. Yes, ma'am.</p> <p>2 Q. I'll scroll from B-1 to B-2. I'm going to</p> <p>3 stop sharing. Okay. Did you write this report?</p> <p>4 MR. BRUEGGEN: Object to form. Attorney-work</p> <p>5 product. But go ahead.</p> <p>6 THE WITNESS: I did write this report. Yes,</p> <p>7 ma'am.</p> <p>8 BY MS. MARTINEZ:</p> <p>9 Q. Okay. Did anyone else write parts of it for</p> <p>10 you?</p> <p>11 MR. BRUEGGEN: Objection. Form. Don't answer</p> <p>12 that. Attorney-work product.</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Okay. So just for clarification, on the</p> <p>15 advice of Counsel, you refuse to answer that question?</p> <p>16 MR. BRUEGGEN: Answer that.</p> <p>17 THE WITNESS: Yes. My Counsel advised me not</p> <p>18 to answer that question, so I will not be answering</p> <p>19 that question.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Okay. Did anyone else tell you what to write?</p> <p>22 MR. BRUEGGEN: Same objection. Don't answer</p> <p>23 that.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. So you're refusing to answer that question on</p>	<p style="text-align: right;">Page 29</p> <p>1 that we try to limit speaking objections in this</p> <p>2 deposition.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Did anyone tell you to make any assumptions in</p> <p>5 drafting this report?</p> <p>6 A. No.</p> <p>7 Q. Did anyone provide you with any facts that are</p> <p>8 not included in the materials you reviewed, that you</p> <p>9 include in this report?</p> <p>10 A. Everything that came to the conclusion that I</p> <p>11 wrote this report were the documents that were sent to</p> <p>12 me that are on Page B-1 and B-2 on the Addendum document</p> <p>13 index.</p> <p>14 Q. Okay. Thank you, sir. When were you retained</p> <p>15 in this case?</p> <p>16 A. I don't know the exact date. Maybe -- I don't</p> <p>17 know the exact date. I want to say April, but I -- I --</p> <p>18 I cannot give you an exact answer without looking back</p> <p>19 at my -- my -- actually my first day when I started</p> <p>20 documenting my hours.</p> <p>21 Q. Okay. And is that April of 2023?</p> <p>22 A. Yes. It's definitely 2023, this year. Yes,</p> <p>23 ma'am.</p> <p>24 Q. Okay. Excuse me. What discussion did you</p> <p>25 have with Defendant's Attorneys prior to agreeing to</p>

<p style="text-align: right;">Page 30</p> <p>1 service as their expert in this case?</p> <p>2 MR. BRUEGGEN: Objection. Calls for attorney</p> <p>3 work product. Again, you're not entitled to that.</p> <p>4 Don't answer.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. On the advice of your Counsel, are you</p> <p>7 refusing to answer this question?</p> <p>8 A. My Counsel advised me not to answer that</p> <p>9 question, so I'm not answering the last question.</p> <p>10 Q. Okay. What was your assignment in this case?</p> <p>11 A. So my assignment was basically reviewing</p> <p>12 documentation that was sent to me, and reviewing</p> <p>13 basically the files from the CPD reports, and basically</p> <p>14 coming to a conclusion and opinion on the investigation.</p> <p>15 Q. Okay. Who chose the documents that you</p> <p>16 received?</p> <p>17 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>18 THE WITNESS: The documents were sent to me by</p> <p>19 the Sotos Law Firm.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Were you retained to address Mr. Tiderington's</p> <p>22 opinions in this case?</p> <p>23 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>24 THE WITNESS: I did receive Mr. Tiderington's</p> <p>25 opinion and I did review it.</p>	<p style="text-align: right;">Page 32</p> <p>1 believe I put maybe two or three. I don't know if</p> <p>2 there was a reason why I didn't put more in there,</p> <p>3 but I stopped at two or three. I don't know why.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. And were you asked not to look at</p> <p>6 certain opinions in Tiderington's report? In</p> <p>7 Mr. Tiderington's report?</p> <p>8 MR. BRUEGGEN: Object to the form. Vague.</p> <p>9 MS. MARTINEZ: I --</p> <p>10 MR. BRUEGGEN: And that's like --</p> <p>11 MS. MARTINEZ: I can --</p> <p>12 MR. BRUEGGEN: Are you asking --</p> <p>13 MS. MARTINEZ: I can rephrase --</p> <p>14 MR. BRUEGGEN: Okay. Go ahead.</p> <p>15 MS. MARTINEZ: I can rephrase.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. So Mr. Tiderington provides two separate</p> <p>18 opinions in his report. Were you asked to not look at</p> <p>19 one of those opinions or to not opine on one of those</p> <p>20 opinions?</p> <p>21 MR. BRUEGGEN: Object to the form. Go ahead.</p> <p>22 THE WITNESS: No, I viewed whatever opinion I</p> <p>23 got from Mr. Tiderington, and to be honest with you,</p> <p>24 I -- I don't even remember if there's two, three</p> <p>25 different opinions, I just reviewed whatever I got.</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MS. MARTINEZ:</p> <p>2 Q. Okay. Your report includes all your</p> <p>3 criticisms of Mr. Tiderington's report that you intend</p> <p>4 to offer in this case, correct?</p> <p>5 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>6 THE WITNESS: I guess you're going to use the</p> <p>7 word criticisms? I'm just going to use that I did</p> <p>8 not agree with some of his opinions. I think</p> <p>9 criticism might be a word you want to use, but I</p> <p>10 think it's such a strong word. I just think the way</p> <p>11 I looked at it was, I did not agree with some of his</p> <p>12 opinions.</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Okay. We can use your terminology. So just</p> <p>15 to be clear, your report includes all of your points of</p> <p>16 disagreement with Mr. Tiderington's report that you</p> <p>17 intend to offer in this case; is that correct?</p> <p>18 A. Not all. Just, I put some points in there.</p> <p>19 Q. Okay. So you have points of disagreement that</p> <p>20 are outside the scope of your report. Apologies, not</p> <p>21 the scope. That are outside the opinion you submitted</p> <p>22 in this report?</p> <p>23 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>24 THE WITNESS: No, I just put these opinions in</p> <p>25 here. I don't know why I only put several. I</p>	<p style="text-align: right;">Page 33</p> <p>1 I believe there were -- I believe there were two</p> <p>2 separate reports. One was a longer report. I</p> <p>3 believe it was like -- it was a long report and I</p> <p>4 believe I viewed one that was maybe three or four</p> <p>5 pages. So again, I don't know the difference</p> <p>6 between, if he submitted different reports, I just</p> <p>7 reviewed what I thought was Mr. Tiderington's</p> <p>8 opinion.</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Okay. So I just have a couple of questions</p> <p>11 about your experience as an expert and previous cases</p> <p>12 that you've worked on. When is the last time you were</p> <p>13 retained as an expert prior to this case?</p> <p>14 A. I was not. This is my first one.</p> <p>15 Q. Okay. Have you ever sat for a deposition in a</p> <p>16 civil case?</p> <p>17 A. So I'm going to need you to rephrase that</p> <p>18 question, because I was deposed, but it was something</p> <p>19 that happened while I was working in Rosemont. So I</p> <p>20 don't know if I was named in a lawsuit, is that</p> <p>21 considered civil? Or is that while I'm on the job? so</p> <p>22 I'm a little --</p> <p>23 Q. Yes --</p> <p>24 A. -- confused.</p> <p>25 Q. Yes. Apologies. Have you ever sat for any</p>

<p style="text-align: right;">Page 34</p> <p>1 <b>kind of deposition before?</b></p> <p>2 A. Yes, I have.</p> <p>3 <b>Q. Okay. And that -- you said that was while you</b></p> <p>4 <b>were an active officer?</b></p> <p>5 A. Yes. I believe I was on three depositions,</p> <p>6 two of them being accidents that occurred in the Village</p> <p>7 while I was working. I was not involved, I was the</p> <p>8 officer who took the report. And then one was on a</p> <p>9 traffic stop that I made while I was working and</p> <p>10 basically, when I pulled the individual over, it was the</p> <p>11 day of President Obama Election. It was Election Day,</p> <p>12 and that was the day he was going to appear at Grant</p> <p>13 Park to do his celebratory speech or whatever you want</p> <p>14 to call it. When I pulled this individual over, first</p> <p>15 thing I found was he had a gun in the car between the</p> <p>16 seat and the console. And then he also had an open</p> <p>17 laptop with some Grant Park, Obama stuff on it. And</p> <p>18 then further investigation with that, I think we took</p> <p>19 out another eight or nine weapons out of the car,</p> <p>20 including long guns, rifles, bunch of ammunition. So at</p> <p>21 this time, with what we found in the car and his laptop</p> <p>22 being open to this, we decided to call down to the</p> <p>23 Secret Service and we were advised by the Secret Service</p> <p>24 to detain this individual. And basically he was not</p> <p>25 charged. He was actually just written one citation by</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. BRUEGGEN: These might be the documents. We</p> <p>2 have copies to the exhibits now.</p> <p>3 MS. MARTINEZ: Oh, perfect. Okay. Thank you.</p> <p>4 THE WITNESS: I -- I -- to be honest with you,</p> <p>5 I don't -- I don't, I'm not a Democrat. I'm not a</p> <p>6 Republican. Rosemont, when I worked there was</p> <p>7 generally a Republican town, but I always -- my view</p> <p>8 is I go to the best candidate that I see fit. I</p> <p>9 don't care if it's Democrat -- Democrat, Republican</p> <p>10 -- I don't care, I just want the best candidate in</p> <p>11 there. So I don't go one way or the other on -- on</p> <p>12 political and I don't talk political, and I never</p> <p>13 get drawn into talking political because I -- I just</p> <p>14 don't want to do it.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 <b>Q. Okay. That's fair. Okay. Did you do any</b></p> <p>17 <b>type of consulting at all in the last four years?</b></p> <p>18 A. I have not.</p> <p>19 <b>Q. So from your CV that you've provided and your</b></p> <p>20 <b>additional trainings, it's clear you've received a lot</b></p> <p>21 <b>on a number of topics. Pardon me. Trainings on a</b></p> <p>22 <b>number of topics, including crime scene, technology,</b></p> <p>23 <b>narcotics, investigations, hostage negotiations,</b></p> <p>24 <b>criminal investigations, wholesale, homicide</b></p> <p>25 <b>investigations, and then fire and arson because of the</b></p>
<p style="text-align: right;">Page 35</p> <p>1 me. And then later on he did file suits and I was named</p> <p>2 in that suit.</p> <p>3 <b>Q. Okay.</b></p> <p>4 A. I hope that answers the question then.</p> <p>5 <b>Q. Yes. And do you know approximately the year</b></p> <p>6 <b>of your last deposition that you sat for?</b></p> <p>7 A. It would be -- so we would just have to look</p> <p>8 to see when President Obama was -- I don't know what</p> <p>9 year -- what year? I don't know a date.</p> <p>10 <b>Q. I think 2008.</b></p> <p>11 A. Yeah. I think he -- he did an eight year</p> <p>12 term. So I think -- I believe his first term, this was</p> <p>13 the first term, yeah, 2008, sounds like.</p> <p>14 <b>Q. Okay. And what would you say your political</b></p> <p>15 <b>views are?</b></p> <p>16 MR. BRUEGGEN: Objection. Form. Relevance.</p> <p>17 MS. MARTINEZ: I can reword that.</p> <p>18 BY MS. MARTINEZ:</p> <p>19 <b>Q. Would you say you identify as a Republican or</b></p> <p>20 <b>a Democrat?</b></p> <p>21 MR. BRUEGGEN: Object to form. Relevance. Go</p> <p>22 ahead.</p> <p>23 THE WITNESS: I don't -- I'm sorry, someone</p> <p>24 just knocked on the door.</p> <p>25 MS. MARTINEZ: It's okay.</p>	<p style="text-align: right;">Page 37</p> <p>1 <b>joint system in Rosemont. What would you consider your</b></p> <p>2 <b>area of expertise?</b></p> <p>3 A. You said "wholesale"; what is that?</p> <p>4 <b>Q. Apologies. Kind of the entire system of</b></p> <p>5 <b>criminal investigations.</b></p> <p>6 A. Okay. I -- thank you. And can you say the</p> <p>7 last part of your question again?</p> <p>8 <b>Q. Yes. What would you consider your area of</b></p> <p>9 <b>expertise?</b></p> <p>10 A. Well, seeing that I was a detective from the</p> <p>11 end of 2000 -- December of 2004 to retirement, it would</p> <p>12 be criminal investigation. And that would be 11 years I</p> <p>13 was a detective, so I did investigate all sorts of cases</p> <p>14 and I did supervise to the end of my career. So I would</p> <p>15 -- it would be criminal investigations.</p> <p>16 <b>Q. Okay. And were there any other classes or</b></p> <p>17 <b>degrees you attained separate from the trainings that</b></p> <p>18 <b>you listed in your CV?</b></p> <p>19 A. No, Ma'am.</p> <p>20 <b>Q. And did you receive any certifications?</b></p> <p>21 A. So when you say certifications, we -- we've</p> <p>22 done in-house training throughout the years. And when,</p> <p>23 and -- and again, I don't have that list for you, but</p> <p>24 when we did do in-house trainings, you did get</p> <p>25 certifications. But again, that's such a broad</p>

<p style="text-align: right;">Page 38</p> <p>1 question, I -- I don't have an answer for you on that.</p> <p>2 Q. Okay. In-house is sufficient. Okay. So your</p> <p>3 area of expertise is criminal investigations. And would</p> <p>4 you agree that you're not an expert in constitutional</p> <p>5 law or elements of constitutional tort?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. In your work history, have you ever</p> <p>8 encountered an officer that committed misconduct?</p> <p>9 MR. BRUEGGEN: Object to form. Vague. Go</p> <p>10 ahead.</p> <p>11 THE WITNESS: So as a supervisor, we did not</p> <p>12 have a internal department. If an internal what</p> <p>13 happened to happen the chief, on occasion would</p> <p>14 assign me to run that internal, which basically</p> <p>15 would mean that I would get all the facts of</p> <p>16 whatever the internal was, and I would assign a</p> <p>17 detective to it and then I would, you know, assist</p> <p>18 the detective and, you know, possibly interview the</p> <p>19 officer or officers, you know, with that internal</p> <p>20 and then go ahead and complete a report and give</p> <p>21 that to the chief with our findings.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. Okay. And has any -- strike that, please. Of</p> <p>24 those internal investigations that you participated in,</p> <p>25 was any officer ever disciplined?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. And your rate for giving testimony is</p> <p>2 \$245 per hour; is that correct?</p> <p>3 A. Correct. I believe that's six hours remote</p> <p>4 minimum and eight hours maximum in-person, I -- or</p> <p>5 minimum in-person, I believe.</p> <p>6 Q. Okay.</p> <p>7 A. I'm looking at the front page.</p> <p>8 Q. Okay. As you work on a project, how do you</p> <p>9 keep track of your hours?</p> <p>10 A. I basically put it in word form. So if I work</p> <p>11 that day -- so let's say today, November 15th, I started</p> <p>12 working reviewing documentation at 8:00 in the morning</p> <p>13 and I stopped at 4:00, I would document it at the end of</p> <p>14 my workday.</p> <p>15 Q. And what's the approximate number of hours</p> <p>16 you've spent working on this case?</p> <p>17 A. So reviewing documentation, approximately 268</p> <p>18 hours. And then deposition preparation besides today,</p> <p>19 I'm not concluding today, would be approximately about</p> <p>20 30 hours.</p> <p>21 Q. Okay. And then approximately how much time</p> <p>22 for writing the actual report?</p> <p>23 MR. BRUEGGEN: Objection. Calls for attorney</p> <p>24 work product. Don't answer that.</p> <p>25 BY MS. MARTINEZ:</p>
<p style="text-align: right;">Page 39</p> <p>1 A. So when it came to the disciplining part of</p> <p>2 it, that was out of our area. On some internals, we</p> <p>3 would give our recommendation for discipline. But after</p> <p>4 the report was turned in, we very, very rarely ever got</p> <p>5 involved in the discipline part of it. And if we heard</p> <p>6 something, it was just through word of mouth, but the</p> <p>7 chief never told us what the discipline was.</p> <p>8 MS. MARTINEZ: Okay. And are you currently</p> <p>9 serving as an expert in any other case?</p> <p>10 THE WITNESS: No, ma'am.</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. Okay. Are you consulting on any other case?</p> <p>13 A. No, ma'am.</p> <p>14 Q. Okay. Thank you, sir. Now I just have a</p> <p>15 couple quick questions about the time you've spent on</p> <p>16 this case. And just to clarify, your compensation rate</p> <p>17 for document review, statement preparation, attorney</p> <p>18 consultation, and testimony is listed in your report,</p> <p>19 correct? On that front page?</p> <p>20 A. Yes, ma'am. Front page, I believe the last</p> <p>21 two paragraphs.</p> <p>22 Q. Perfect. Okay. And so your rate for document</p> <p>23 review, statement preparation, and attorney consultation</p> <p>24 is \$195 per hour, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Okay. On the advice of your Counsel, you're</p> <p>2 refusing to answer that question?</p> <p>3 A. Yes. My counselor is advising me not to</p> <p>4 answer that question, so I will not be answering that</p> <p>5 question.</p> <p>6 Q. What is the total amount you have billed in</p> <p>7 this case to date?</p> <p>8 A. Without doing the math, I cannot give you an</p> <p>9 approximate answer. I would have to -- I would have to</p> <p>10 do the math of 268 times what I'm making an hour.</p> <p>11 Q. Okay. So at the very minimum, it would be the</p> <p>12 268 hours you spent reviewing the materials and then the</p> <p>13 30 hours you spent preparing for this deposition, times</p> <p>14 the appropriate multiplier for your rate?</p> <p>15 A. Yes. And what I do is, at the end of the</p> <p>16 month, I go ahead and send my invoice to the admin and</p> <p>17 basically I'm submitting my hours and then they are --</p> <p>18 whatever they're doing to receive the payment, they're</p> <p>19 sending me the check.</p> <p>20 Q. Okay. So you're at the end of the month?</p> <p>21 A. Yes, ma'am. And I don't know when I receive</p> <p>22 the check. It just depends on when -- when the check is</p> <p>23 processed, but I always -- I submit my hours at the last</p> <p>24 day.</p> <p>25 Q. Okay.</p>



<p style="text-align: right;">Page 42</p> <p>1 A. For that -- for that month.</p> <p>2 Q. Okay. Will you bill for every hour you've</p> <p>3 worked on this case?</p> <p>4 A. I will bill for every hour that I work on this</p> <p>5 case. Yes, ma'am.</p> <p>6 Q. Okay, great. Thank you, sir. So now I want</p> <p>7 to get into the materials that you reviewed. So again,</p> <p>8 please feel free to look at your report, flip to the</p> <p>9 pages that you think are appropriate because I just want</p> <p>10 your most truthful and fullest answer.</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And so to clarify, are there any documents you</p> <p>13 reviewed before your report was disclosed that are not</p> <p>14 listed in this report?</p> <p>15 A. You froze up there for about a half a second.</p> <p>16 Can you repeat?</p> <p>17 Q. Yes. Sorry. Sometimes we get some tech</p> <p>18 problems. Are there any documents that you reviewed</p> <p>19 before your report was disclosed that are not listed on</p> <p>20 your report?</p> <p>21 A. No. Everything that I reviewed is on my</p> <p>22 addendum B, document index.</p> <p>23 Q. Okay. And you only reviewed the investigative</p> <p>24 files listed on this report, correct?</p> <p>25 A. The investigative files. Are you talking</p>	<p style="text-align: right;">Page 44</p> <p>1 electronic versions of the documents? I'll apologize.</p> <p>2 I'll rephrase.</p> <p>3 A. Thank you.</p> <p>4 Q. When you were reviewing these materials, did</p> <p>5 you print them out and take notes on them?</p> <p>6 A. Some documents I did print out. Like I did</p> <p>7 print out the CPD file, but I did not put any notes on</p> <p>8 there. And then I would say most of the documents, I</p> <p>9 just viewed electronically on my laptop without printing</p> <p>10 those documents out. Yes, ma'am.</p> <p>11 Q. Okay. Have you reviewed any other material</p> <p>12 since you issued this report?</p> <p>13 A. New material?</p> <p>14 Q. New material.</p> <p>15 A. No. Whenever -- I -- I re-reviewed</p> <p>16 information that I had just to prepare for the</p> <p>17 deposition.</p> <p>18 Q. Okay. Are there any materials that you asked</p> <p>19 for and were not provided?</p> <p>20 A. No.</p> <p>21 Q. So now I'm just going to go through a couple</p> <p>22 of the materials that you reviewed. So your report</p> <p>23 states that you reviewed the complete CPD investigative</p> <p>24 files, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 43</p> <p>1 about the Chicago Police Department file?</p> <p>2 Q. Yes.</p> <p>3 A. Yes. And I believe that was 88 or 89 pages.</p> <p>4 Without looking at it, that's what I --</p> <p>5 Q. Okay. Please feel free to look. Apologies. I</p> <p>6 did not mean to cut you off, sir. Please feel free to</p> <p>7 look at your report, flip around, take the time you</p> <p>8 need.</p> <p>9 A. Yes. So the CPD report, the RFC Johnson, it</p> <p>10 goes up to 80, zero, whatever. So many zeros with 87.</p> <p>11 That's the CPD file that I reviewed, which is on my</p> <p>12 addendum B.</p> <p>13 Q. Okay. And for the materials you did receive,</p> <p>14 did you receive them all at once or did you receive them</p> <p>15 in batches?</p> <p>16 A. I received them in batches.</p> <p>17 Q. Okay. And do you know approximately when you</p> <p>18 received that first batch?</p> <p>19 A. Without looking at a past e-mail, I cannot</p> <p>20 answer that question.</p> <p>21 Q. Okay. And when you were provided materials</p> <p>22 that you reviewed in this case, were they provided to</p> <p>23 you electronically, in paper, or both?</p> <p>24 A. Electronically.</p> <p>25 Q. Okay. And then did you take notes on</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Did you review each page of the investigative</p> <p>2 files?</p> <p>3 A. I did.</p> <p>4 Q. Okay. Your report states that you reviewed</p> <p>5 the entire criminal transcript in this case; is that</p> <p>6 correct?</p> <p>7 A. Is that the 1200 page 1 from the State's</p> <p>8 Attorney?</p> <p>9 Q. Apologies. The criminal trial transcript. So</p> <p>10 JGS_Johnson one 01-310.</p> <p>11 A. I reviewed that. Yes, ma'am.</p> <p>12 Q. Okay. Did you review each page?</p> <p>13 A. I did.</p> <p>14 Q. Okay. Your report states that you reviewed</p> <p>15 the complete State's Attorney's files in this case.</p> <p>16 That's the CCSAO 121229; is that correct? Because you</p> <p>17 reviewed that entire document?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Your report states that you reviewed</p> <p>20 the complete criminal defense file. So that would be</p> <p>21 the Cook County Public Defender file, pages one to 126.</p> <p>22 MR. BRUEGGEN: Objection.</p> <p>23 BY MS. MARTINEZ:</p> <p>24 Q. Did you --</p> <p>25 MR. BRUEGGEN: Go ahead. Sorry.</p>

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1 BY MS. MARTINEZ:  
 2 Q. Did you -- oh, no, it's okay. Did you review  
 3 that entire file?  
 4 A. I did.  
 5 Q. Your report states that you reviewed portions  
 6 of the impound evidence. I believe you put 328 to 338,  
 7 343 to 344, and 373 to 374; is that correct?  
 8 A. Apologize. I need to put my glasses on to  
 9 follow it.  
 10 Q. That's okay.  
 11 A. Impound evidence 328 to 38, 343 to -- to 44,  
 12 373 to 74. Correct.  
 13 Q. Okay. How did you decide which portions of  
 14 the impound evidence to review?  
 15 A. That is what I received.  
 16 Q. Okay. Do you think there could have been  
 17 relevant information in the other impounded evidence  
 18 documents?  
 19 MR. BRUEGGEN: Object to form and speculation.  
 20 Go ahead.  
 21 THE WITNESS: That I cannot answer. Without  
 22 reviewing documentation, I cannot come to any sort  
 23 of conclusion or opinion on that.  
 24 BY MS. MARTINEZ:  
 25 Q. Okay. For each of the depositions you list,

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1 did you read every page?  
 2 A. I did.  
 3 Q. And for each of the declarations, did you read  
 4 every page?  
 5 A. I did. I believe there was four of them, yes  
 6 -- yes, ma'am.  
 7 Q. And is the lineup procedures slash general  
 8 orders the only CPD policy you reviewed?  
 9 A. Yes, ma'am.  
 10 Q. In the opinion and order that you refer to,  
 11 can you clarify to what documents specifically you're  
 12 referring?  
 13 A. Without going back and reviewing that and  
 14 looking at that, I cannot give an answer right now on  
 15 that.  
 16 Q. Okay. Do you remember if it was related to  
 17 Mr. Johnson's criminal case?  
 18 A. Again, I would have to go back and look at the  
 19 opinion order to give you any kind of answer on that.  
 20 Q. Okay. I have the same question for the motion  
 21 for the discovery and additional discovery. Was that in  
 22 relation to Mr. Johnson's criminal case?  
 23 A. Again, I would have to go back and look at --  
 24 look at that section.  
 25 Q. Same question for the answers to discovery. Do

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1 you know if that is for the criminal case?  
 2 A. Again, I would have to go back and look at the  
 3 documentation.  
 4 Q. And then for the Aby Gonzalez communications,  
 5 is that the correct Bates stamp to the best of your  
 6 knowledge?  
 7 A. The only thing I can say on that is I remember  
 8 was some sort of text messages between an investigator  
 9 and Aby Gonzalez. But to go further with that, I would  
 10 have to go back to that documentation and look at that.  
 11 Q. Okay. Did you review any documents about  
 12 investigations into Detective Guevara?  
 13 A. No.  
 14 Q. Any FBI documents mentioning Detective  
 15 Guevara?  
 16 A. No, ma'am.  
 17 Q. Any documents related to the City's internal  
 18 investigation of Detective Guevara?  
 19 A. No, ma'am.  
 20 Q. And any post-conviction cases regarding people  
 21 wrongly convicted by Detective Guevara and freed by the  
 22 Illinois Courts?  
 23 MR. BRUEGGEN: Object to form. Go ahead.  
 24 THE WITNESS: No, ma'am.  
 25 BY MS. MARTINEZ:

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1 Q. Do you know why you were not provided all the  
 2 Guevara CR files and any other documents related to  
 3 Detective Guevara's previous bad acts?  
 4 MR. BRUEGGEN: Object to form, speculation. Go  
 5 ahead and answer.  
 6 THE WITNESS: I received documentation.  
 7 Whatever documentation I received, I reviewed. And  
 8 that's how I formed my opinion on my report. I did  
 9 not give any thoughts or would I even know anything  
 10 about what you're bringing up in that question.  
 11 BY MS. MARTINEZ:  
 12 Q. Okay. And the -- relatedly, is it your view  
 13 that the CPD's discipline or lack thereof of Detective  
 14 Guevara postdating Plaintiff's arrest in this case is  
 15 irrelevant to your opinions in this report?  
 16 MS. CARNEY: Objection.  
 17 MR. BRUEGGEN: Object to form.  
 18 MS. MARTINEZ: I can -- yeah. Let me reword.  
 19 BY MS. MARTINEZ:  
 20 Q. Is it your opinion that any investigation or  
 21 documents reflecting bad acts by Defendant Guevara are  
 22 irrelevant for the purposes of your report?  
 23 MR. BRUEGGEN: Object to form, foundation,  
 24 speculation. Go ahead, sir.  
 25 THE WITNESS: So I received -- again, I



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1 received the documentation. I did not have any  
2 opinion except the documentation that I read in  
3 which I read each page and I formed my report or I  
4 formed an opinion. I wrote it on my report. I did  
5 not give any thoughts to -- and again, that -- that  
6 long sentence that you just gave at me, so.

7 BY MS. MARTINEZ:

8 Q. Okay. Did you review any expert reports in  
9 this case other than Mr. Tiderington's, which you list  
10 in your materials?

11 A. No. Tiderington was the only -- oh, I'm  
12 sorry. I apologize. There was another one. Ralph  
13 Rider's gang expert report, I did review.

14 Q. Yes. Okay. So just for clarification, you  
15 did not reveal the Dysart report on eyewitness  
16 identifications dated March 8th of 2023; is that  
17 correct?

18 A. What was the first -- is that a name?

19 Q. Dysart. Yes.

20 A. I don't know a Dysart. I -- first I'm hearing  
21 of that.

22 Q. Okay. And you did not review the Nancy  
23 Stubley report on eyewitness lineup identifications  
24 dated March 1st of 2023; is that correct?

25 A. Correct. I don't know that name either.

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1 Q. Okay. Did you review any other depositions  
2 other than those listed on your report?

3 A. No. Just the depositions that are listed on  
4 B1 and the three on B2. No other depositions.

5 Q. And your report doesn't rely on any academic  
6 paper article or other publication on policing  
7 practices; is that correct?

8 A. No, just what I read in the documentation that  
9 was sent to me.

10 Q. Okay. Are you aware that Plaintiff Demetrius  
11 Johnson received a Certificate of Innocence in this  
12 case?

13 A. I believe I read that somewhere in the  
14 documentation that was provided to me. But without --  
15 I'm looking at my --

16 Q. Please.

17 A. -- documented index. Now it was somewhere --  
18 I did -- I did read that somewhere, but again, I don't  
19 know what document that was on.

20 Q. Okay.

21 A. Without me going back and -- and going through  
22 all the documents.

23 Q. Okay. And so just to clarify, you did not  
24 read or review his certificate of innocence petition?  
25 That's the first question.

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1 A. Can you --

2 Q. Yeah, apologies. Strike -- yeah. Strike that  
3 question. So to clarify, you did not review his  
4 Certificate of Innocence petition, correct? Plaintiff's  
5 Certificate of Innocence petition?

6 A. Again, I remember reading something. I don't  
7 know the exact title of that documentation was. I'm  
8 trying to look at my document index, but nothing is  
9 ringing a bell on what document that would be on. But  
10 it was in some sort of documentation that I did receive.

11 Q. Okay. And do you recall ever reviewing his  
12 certificate of innocence order that was issued by the  
13 judge?

14 A. I -- I cannot answer that. I do not know  
15 without going back to the documentation.

16 Q. Do you think that the State's finding of  
17 innocence would be relevant for your review of the  
18 investigation of the officers?

19 MR. BRUEGGEN: Object to form. Speculation.

20 THE WITNESS: So again, I took all the  
21 documentation that I received and I went through the  
22 CPD, Chicago Police Department reports. I looked at  
23 their investigation and that's the opinion that I  
24 formed on the investigation.

25 BY MS. MARTINEZ:

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1 Q. Okay. And as you sit here and I tell you that  
2 the Certificate of Innocence Order found that the  
3 officers did commit a Brady violation, would that affect  
4 your opinion?

5 MR. BRUEGGEN: Objection. Form.

6 THE WITNESS: Answer?

7 MR. BRUEGGEN: Go ahead.

8 THE WITNESS: Again, I'm going to go -- I'm  
9 going to defer back to my other answer is -- is I  
10 was provided with this documentation. I looked at  
11 the investigation as a whole, and that's the opinion  
12 that I came up with.

13 BY MS. MARTINEZ:

14 Q. All right. Just a few more questions about  
15 the materials that you reviewed. To clarify, you did  
16 not review the detective division standard operating  
17 procedures from 1988; is that correct?

18 A. Again, I -- I would have to look. I don't  
19 believe so unless it was in -- I apologize. I'm going  
20 to look here really quick.

21 Q. No, please. Please do.

22 A. Unless something was in the Chicago Police  
23 Department lineup procedure general orders, which is I  
24 believe the sixth line down, I -- if it was in there,  
25 then I reviewed it. But without reviewing that

<p style="text-align: right;">Page 54</p> <p>1 documentation right now, I cannot answer your question.</p> <p>2 Q. Okay. I can tell you it is not included in</p> <p>3 that document.</p> <p>4 A. Okay.</p> <p>5 Q. And last one, did you review Special Orders</p> <p>6 83-1?</p> <p>7 A. Special Orders 83-1 does not ring a bell with</p> <p>8 my documentation. I -- that's the first I've ever heard</p> <p>9 of Special 83-1.</p> <p>10 Q. Okay.</p> <p>11 A. I think that would've been an easy one to</p> <p>12 remember.</p> <p>13 Q. Is that the same for 83-2?</p> <p>14 A. Yes. I don't -- first I'm hearing of that.</p> <p>15 Q. Okay. And lastly, is that the same for 86-3?</p> <p>16 A. First I'm hearing of that.</p> <p>17 Q. Okay. Great.</p> <p>18 MS. MARTINEZ: Okay. Do the parties want to</p> <p>19 take a quick five-minute break?</p> <p>20 MR. BRUEGGEN: Yeah, that would be great.</p> <p>21 MS. MARTINEZ: Okay. So it's 11:01. We'll go</p> <p>22 off and we'll come back 11:06?</p> <p>23 MR. BRUEGGEN: Sounds good.</p> <p>24 THE WITNESS: Thank you.</p> <p>25 MR. BRUEGGEN: Okay. No problem.</p>	<p style="text-align: right;">Page 56</p> <p>1 THE WITNESS: Can you rephrase that question --</p> <p>2 question please?</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Yes. You -- in formulating your opinion, you</p> <p>5 worked off of the documents that you received; is that</p> <p>6 correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Okay. And it wasn't part of your opinion on</p> <p>9 whether or not the facts as you reviewed them were</p> <p>10 truthful or untruthful; is that correct?</p> <p>11 A. I just went off the documentation that was</p> <p>12 sent to me, reviewed the documentation, and that's how I</p> <p>13 formed my opinion.</p> <p>14 Q. Okay. And you're not giving an opinion in</p> <p>15 your report about who killed Edwin Fred; is that</p> <p>16 correct?</p> <p>17 A. Again, I am reading the reports, I'm looking</p> <p>18 at the investigation, and I'm giving my opinion on the</p> <p>19 investigation.</p> <p>20 Q. And you're not giving an opinion in your</p> <p>21 report about whether there was probable cause to arrest</p> <p>22 Mr. Johnson; is that correct?</p> <p>23 A. So again, I'm reading my report, I'm looking</p> <p>24 at the full investigation, and I'm giving an opinion on</p> <p>25 the investigation.</p>
<p style="text-align: right;">Page 55</p> <p>1 THE REPORTER: We're going off record. The</p> <p>2 time is 11:01 a.m. Central.</p> <p>3 (OFF THE RECORD)</p> <p>4 THE REPORTER: Okay. We are back on record for</p> <p>5 the deposition of Ronald Muich, being conducted by</p> <p>6 video conference. My name is Kyra Tate. Today is</p> <p>7 November 15, 2023. The time is 11:07 a.m. Central.</p> <p>8 BY MS. MARTINEZ:</p> <p>9 Q. So Mr. Muich, now I want to start getting into</p> <p>10 the substance of your report. So first, you are not</p> <p>11 giving opinions in your report about CPD policies or</p> <p>12 widespread practices as being appropriate or not,</p> <p>13 correct?</p> <p>14 A. That is correct.</p> <p>15 Q. And you're not giving opinions in your report</p> <p>16 about training of Chicago Police officers?</p> <p>17 A. Correct.</p> <p>18 Q. You're not giving opinions in your report</p> <p>19 about homicide file retention policies, correct?</p> <p>20 A. That is correct.</p> <p>21 Q. And you're not giving opinions in your report</p> <p>22 about the truth of the facts of Demetrius Johnson's</p> <p>23 case; is that correct?</p> <p>24 MR. BRUEGGEN: Object to form. Go ahead and</p> <p>25 answer.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. You are not giving an opinion in your report</p> <p>2 about whether Mr. Johnson was wrongly prosecuted or</p> <p>3 convicted; is that correct?</p> <p>4 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>5 THE WITNESS: Again, same answer. I'm looking</p> <p>6 at the investigation, reviewing the documents, and</p> <p>7 giving an opinion.</p> <p>8 BY MS. MARTINEZ:</p> <p>9 Q. You're not giving an opinion in your report</p> <p>10 about whether Mr. Johnson is innocent or guilty; is that</p> <p>11 correct?</p> <p>12 A. Again, reviewing the documents and giving an</p> <p>13 opinion on the documents that I've reviewed.</p> <p>14 Q. Okay. Does the fact that he was granted a</p> <p>15 Certificate of Innocence by the state of Illinois</p> <p>16 suggest to you that he is, in fact, innocent?</p> <p>17 MS. CARNEY: Object to form. Asked and</p> <p>18 answered. Go ahead.</p> <p>19 THE WITNESS: Again, I'm reviewing the</p> <p>20 documents that were sent to me and I'm forming an</p> <p>21 opinion on the documents that I reviewed.</p> <p>22 MR. BRUEGGEN: Alyssa, you're on mute.</p> <p>23 MS. MARTINEZ: Thank you. I accidentally</p> <p>24 pressed the space bar. I do that all the time.</p> <p>25 BY MS. MARTINEZ:</p>

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1 Q. Okay. You are not giving any opinion about  
2 whether Rey Guevara engaged in a pattern of misconduct;  
3 is that correct?

4 A. Again, same answer. I reviewed the  
5 documentation that was sent to me, reviewed all the  
6 documentation and wrote my report on reviewing the  
7 documentation.

8 Q. All right. You are not giving any opinion  
9 about whether Rey Guevara should have been disciplined  
10 in general by the Chicago Police Department; is that  
11 correct?

12 A. Same answer. Reviewed my documentation and  
13 wrote my report.

14 Q. Okay. And you're not giving any legal  
15 conclusions in your report; is that correct?

16 A. Again, reviewed documentation, gave an opinion  
17 in the report.

18 Q. Okay. And so now I want to get into the  
19 opinions you are giving. So on page 3, that first full  
20 paragraph. And please take as much time as you need to  
21 flip to the relevant section. So in that first full  
22 paragraph, you detail how Bryan Johns, Elliot Berverena,  
23 and Jose Medina were picked up along with a handgun from  
24 the vehicle that they were found in; is that correct?

25 A. So I believe the names that you are saying, I

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1 did not put those names in the -- in my report. Can you  
2 clarify that?

3 Q. Yes. The two other men he was found, those  
4 are their names, but --

5 A. Okay.

6 Q. -- I can -- with that aside, is the other  
7 information contained in that paragraph?

8 MS. CARNEY: Object to form. On can you repeat  
9 the question?

10 BY MS. MARTINEZ:

11 Q. Yes. In that first full paragraph on Page 3,  
12 you detail how Bryan Johns and the two men he was found  
13 with were picked up along with a handgun from the  
14 vehicle they were found in; is that correct?

15 A. That is correct.

16 Q. Okay. And is it fair to say that under  
17 standard policing practices in the early '90s, if three  
18 people matching the initial description coming in about  
19 the perpetrators of a shooting were found, and one of  
20 those people was ID'd by a witness, that officers would  
21 investigate those individuals? Is that a fair  
22 statement?

23 MR. BRUEGGEN: Object to form.

24 THE WITNESS: I'm going to have to have you  
25 repeat the question because you put about three

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1 questions in one question. So I want to make sure  
2 that I understand the complete question.

3 BY MS. MARTINEZ:

4 Q. Okay. So is it fair to say that under  
5 standard policing practices in the early '90s, if three  
6 individuals were found that matched the description of  
7 three people who committed a crime, would it be proper  
8 to investigate those individuals?

9 MR. BRUEGGEN: Object to form. Incomplete  
10 hypothetical. Go ahead, sir.

11 THE WITNESS: So again, I'm -- I'm taking that  
12 as a hypothetical because you're talking about three  
13 men that committed a crime. So are you talking a  
14 hypothetical crime or are you talking about this  
15 case in general?

16 BY MS. MARTINEZ:

17 Q. I'm talking about this case here. I can --  
18 let me reword it to make it a little easier to respond  
19 to. So would you agree that the initial reports coming  
20 in, Bryan Johns and the two men he were with matched the  
21 description?

22 MR. BRUEGGEN: Object to form. Go ahead.

23 THE WITNESS: I would say that the information  
24 that did come out, they did say that it was Lil D  
25 and Bryan Johnson, and then the officer knowing a

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1 Lil D, I would say that would be correct.

2 BY MS. MARTINEZ:

3 Q. Okay. And then after bringing those gentlemen  
4 in, would it be standard policing practices to  
5 interrogate them about the shooting?

6 MR. BRUEGGEN: Object to form. Vague. Go  
7 ahead.

8 THE WITNESS: It is a very vague question. But  
9 if you were going to bring somebody in and if they  
10 did meet a description, you can question them. I  
11 would say that would be correct.

12 BY MS. MARTINEZ:

13 Q. Okay. And if one of these individuals were  
14 ID'd by an eyewitness -- strike that, please. Is it  
15 standard policing practice to document leads as they're  
16 received?

17 MR. BRUEGGEN: Object to form. Go ahead.

18 THE WITNESS: Are you talking about back in  
19 1991 or are you talking about now?

20 BY MS. MARTINEZ:

21 Q. Yes. That -- apologies. Yes. In 1991, would  
22 it be standard policing practice to document leads as  
23 they are received?

24 A. Again, I would have to look at their policy to  
25 see if the policy did state that they had to document

<p style="text-align: right;">Page 62</p> <p>1 every lead. So I -- I cannot give you an accurate 2 answer right now without viewing their policy. 3 Q. Okay. So is it your opinion, then, that there 4 was no standard policing practice at the time around 5 investigation or -- apologies. Strike that, please. Is 6 it your opinion, then, that there was no standard 7 policing practice about documenting leads as they 8 received? It was on a policy by policy basis? 9 A. Well, I would have -- 10 MR. BRUEGGEN: Object to form. 11 MS. CARNEY: And misstates his testimony, and 12 outside the scope of his report. You can answer. 13 Sorry. 14 THE WITNESS: So again, I would -- I would have 15 to look at the policy again -- 16 BY MS. MARTINEZ: 17 Q. But I'll rephrase. In your experience, when 18 you were an officer at that time -- I believe that's 19 when you were with the auxiliary unit; is that correct? 20 1991? 21 A. 1987. 22 Q. But in 1991 when the shooting happened, that's 23 the unit that you were with, correct? 24 A. Yes. 25 Q. So in your experience in 1991, was it standard</p>	<p style="text-align: right;">Page 64</p> <p>1 prevailing practice in 1991 around whether detectives 2 took notes of interviews with witnesses or suspects? 3 MR. BRUEGGEN: Object to form. Misstates his 4 testimony. 5 THE WITNESS: Answer? 6 MR. BRUEGGEN: Yeah. 7 THE WITNESS: Correct. 8 BY MS. MARTINEZ: 9 Q. Okay. In your experience, is it standard 10 policing practice -- strike that, please. In your 11 experience, was it standard policing practice in 1991 to 12 check the alibis of individuals suspected of committing 13 a crime? 14 MR. BRUEGGEN: Object to form. Incomplete 15 hypothetical. Go ahead, sir. 16 THE WITNESS: And again, I would have to 17 hearsay 1991. With my experience, I would have to 18 go to 1995 because that's when I became a full-time 19 police officer and actually engaged in those kind of 20 jobs, but it would depend. It would depend on the 21 interview and on witnesses. It would just -- it 22 would just depend. So it's -- it's too broad of a 23 question. 24 BY MS. MARTINEZ: 25 Q. In your experience in 1991, would it be</p>
<p style="text-align: right;">Page 63</p> <p>1 policing practice to document leads? 2 MS. CARNEY: Object to form. 3 THE WITNESS: So in 1991 -- 4 BY MS. MARTINEZ: 5 Q. Apologies. I missed -- 6 A. So in 1991, I was an auxiliary officer, so I 7 would not be able to answer that question because I 8 wasn't involved in arrests. I was doing traffic control 9 and patrol in the village and following the school bus 10 and making sure that the kids got home safe. So I cannot 11 answer that 1991 on my own personal experience. 12 Q. So you don't have -- just, sorry, just for 13 clarification. So you don't have an opinion on what the 14 prevailing practice was in 1991 regarding documenting 15 leads? 16 MR. BRUEGGEN: Object to form. 17 THE WITNESS: Correct. 18 BY MS. MARTINEZ: 19 Q. Okay. In your experience in 1991, was it 20 standard policing practices for detectives to take notes 21 of interviews that they had with witnesses or suspects? 22 A. It would depend. It would depend on the 23 interview. Some took notes. Some didn't take notes. I 24 -- I -- I can't answer that one way or the other. 25 Q. Okay. So it's your opinion that there was no</p>	<p style="text-align: right;">Page 65</p> <p>1 standard policing practice to search the area where 2 suspects were picked up that were -- strike that, 3 please. In your experience in 1991, would it have been 4 standard policing practice to conduct a search of the 5 area where suspects were picked up that were -- that 6 officers suspected committed a homicide? 7 MR. BRUEGGEN: Object to form. Incomplete 8 hypothetical. Go ahead, sir. 9 THE WITNESS: So again, it just depends on the 10 situation. It depends on what information they're 11 receiving. Again, it's a very broad question. 12 BY MS. MARTINEZ: 13 Q. So specifically in this case, you offer no 14 opinion about why the officers did not search the 15 building that Mr. Johns and his two associates were 16 found in; is that correct? 17 A. Well, it's not that I'm not going to give an 18 opinion. Again, you have to look at the whole 19 investigation like I looked at, that you're getting that 20 broadcast, and again, when the broadcast is coming out, 21 it's changing literally second by second, minute by 22 minute. So just to say that officers are going to go 23 into a building and search it just because someone came 24 out, again, it's a very broad question. It's not as 25 black and white as -- as you're giving me the question.</p>

<p style="text-align: right;">Page 66</p> <p>1 So it would just, again depend on the situation. And</p> <p>2 again, I wasn't there in 1991. I only can go according</p> <p>3 to what I reviewed in the reports. And so I -- I -- I</p> <p>4 cannot answer that. You know, that they should've went</p> <p>5 a building, they shouldn't have went a building, what</p> <p>6 they should've did. I hope that answers your question.</p> <p>7 Q. Yes. I just want to clarify that in your</p> <p>8 report, you don't offer an opinion about why those</p> <p>9 officers did or did not enter that building; is that</p> <p>10 correct?</p> <p>11 A. That is correct.</p> <p>12 Q. Okay. I'm now going to share my screen again.</p> <p>13 Let's mark this Exhibit 2. And Mr. Muich, I'd like to</p> <p>14 draw your -- are you able to see the document?</p> <p>15 (EXHIBIT 2 MARKED FOR IDENTIFICATION)</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. Okay. So I'd like to draw your attention to</p> <p>19 quote, Daley sees Bryan Johns, Lil D, leaving a van with</p> <p>20 two male Hispanics with a gun found in the car. Well,</p> <p>21 no, it's not the same gun. It couldn't have been. One</p> <p>22 is a .25. One is a .38. One is an automatic and one is</p> <p>23 a revolver. Do you see that section right here, sir?</p> <p>24 A. I do.</p> <p>25 MR. BRUEGGEN: And Alyssa, I just gave him a</p>	<p style="text-align: right;">Page 68</p> <p>1 probably be sent down to the crime lab for</p> <p>2 examination.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Okay. And assuming for a moment that both</p> <p>5 guns were recovered and only one were tested, would that</p> <p>6 change your opinion on whether a proper investigation</p> <p>7 was conducted as it pertains to Mr. Johns and the two</p> <p>8 men he was found with?</p> <p>9 MR. BRUEGGEN: Objection, incomplete</p> <p>10 hypothetical. Are you asking him to assume there</p> <p>11 were two guns found?</p> <p>12 MS. MARTINEZ: Yes.</p> <p>13 MR. BRUEGGEN: Oh. Same objection. Go ahead.</p> <p>14 THE WITNESS: Can you repeat the question</p> <p>15 please?</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. Yes. So if it were true that two guns were</p> <p>18 found as that testimony states instead of one, would</p> <p>19 that change your opinion at all concerning whether there</p> <p>20 was a proper investigation conducted into Mr. Johns and</p> <p>21 the two men he was with?</p> <p>22 MR. BRUEGGEN: Objection. Incomplete</p> <p>23 hypothetical. Go ahead, sir.</p> <p>24 THE WITNESS: So again, you're giving me a</p> <p>25 hypothetical situation. If two guns were found, I</p>
<p style="text-align: right;">Page 67</p> <p>1 hard copy of the Exhibit 2 that you guys saw this</p> <p>2 morning.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Perfect. Okay. Thank you. I'm going to stop</p> <p>5 the share then just to make it easier for the video. In</p> <p>6 your report, page 3 in paragraph 1, you only discussed</p> <p>7 one gun that was found and the test results for that</p> <p>8 gun; is that correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. Were you told by anyone to assume that</p> <p>11 there was only one weapon?</p> <p>12 A. I was not.</p> <p>13 Q. What is your factual basis for assuming there</p> <p>14 was only one?</p> <p>15 A. I would have to go back to the CPD report and</p> <p>16 actually see that section with the van and the gun. But</p> <p>17 without going back to that section, I would not be able</p> <p>18 to answer that question.</p> <p>19 Q. Okay. With that aside, do you agree that in</p> <p>20 1991 it would be standard policing procedures to test</p> <p>21 every weapon that was brought in by officers that would</p> <p>22 match the weapon used to commit a crime?</p> <p>23 MR. BRUEGGEN: Object to form. Incomplete</p> <p>24 hypothetical. Go ahead.</p> <p>25 THE WITNESS: I would say that weapons would</p>	<p style="text-align: right;">Page 69</p> <p>1 would say both guns would go to the crime lab. If</p> <p>2 three guns were found, three guns would go to the</p> <p>3 crime lab or more investigation would occur.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. So just for a -- just for a clean</p> <p>6 transcript, if that testimony were true and two guns</p> <p>7 were found, you would expect that under standard</p> <p>8 policing procedures, both of those guns would be tested;</p> <p>9 is that correct?</p> <p>10 A. Again, you're giving me a hypothetical</p> <p>11 situation and you're saying two guns. And if, you know,</p> <p>12 and -- and I'm not trying to be smart back at you, but</p> <p>13 if -- if one gun was a -- and I'm going to go on -- on</p> <p>14 this hard copy, I have a .25 and one gun was a bazooka,</p> <p>15 I don't think they would send the bazooka to the crime</p> <p>16 lab. And again, I'm not being smart with you. I'm</p> <p>17 trying to get my point to you. So again, you're giving</p> <p>18 me a hypothetical situation and I don't think I could</p> <p>19 fairly answer that question because you're just saying</p> <p>20 two guns.</p> <p>21 Q. Okay. To your response, if that bazooka were</p> <p>22 a .38, do you think that that gun would be tested?</p> <p>23 MR. BRUEGGEN: Objection, incomplete</p> <p>24 hypothetical. Answer.</p> <p>25 THE WITNESS: I mean, I -- I can't say if it</p>



<p style="text-align: right;">Page 70</p> <p>1 would be tested or not. It just depends on the</p> <p>2 whole investigation. And again, the hypothetical, I</p> <p>3 -- I -- I can't answer that question.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay.</p> <p>6 MR. BRUEGGEN: And Alyssa, just for the record,</p> <p>7 did you say whose testimony that was? Because I</p> <p>8 just have an excerpt. So -- just so I'm clear.</p> <p>9 MS. MARTINEZ: Yes. Oh, apologies. I -- my</p> <p>10 notes are -- I will get that information on the next</p> <p>11 break and I'll get that over to you and put it on</p> <p>12 the record. It's --</p> <p>13 MR. BRUEGGEN: Great. Thank you.</p> <p>14 MS. MARTINEZ: -- having some trouble. Yeah,</p> <p>15 no problem.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. Okay. Let me just -- okay. So now I'd like</p> <p>18 to look at Page 3, the second full paragraph on Page 3.</p> <p>19 A. Okay.</p> <p>20 Q. And this is where you described two lineups</p> <p>21 that occurred the night of June 12, 1991; is that</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. So I'm going to share my screen again</p> <p>25 and let's mark this as Exhibit 3. Okay.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. Let me scroll -- would you agree that</p> <p>2 for Rosaline Morales, it says that she viewed the lineup</p> <p>3 at 23:50?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Would you agree that for Angel Cordova, it</p> <p>6 says he viewed the lineup at 23:55?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And lastly, for Fina Montanez, would you agree</p> <p>9 that it says she viewed the lineup at 1:15?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Okay. And would you agree that this report</p> <p>12 has the information of the fillers contained in the</p> <p>13 section where it says "persons participating in lineup"?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Okay. And would you agree that it says</p> <p>16 "person identified in lineup number two, Bryan Johns"?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. And would you agree that on the third</p> <p>19 paragraph in history and investigation, it says, "Aby</p> <p>20 Gonzalez then viewed the lineup. He viewed the lineup</p> <p>21 as the participants were sitting side by side in chairs.</p> <p>22 The participants were not required to make any movements</p> <p>23 or repeat any phrases. After viewing this lineup, he</p> <p>24 identified the number two participant Bryan Johns as the</p> <p>25 offender and said homicide." Do you see that part?</p>
<p style="text-align: right;">Page 71</p> <p>1 (EXHIBIT 3 MARKED FOR IDENTIFICATION)</p> <p>2 MR. BRUEGGEN: Alyssa, can you tell us what</p> <p>3 page that is? Is that RFC Johnson 26?</p> <p>4 MS. MARTINEZ: Yes. This is RFC Johnson 26,</p> <p>5 correct.</p> <p>6 BY MS. MARTINEZ:</p> <p>7 Q. Okay. Let me know when you have that in front</p> <p>8 of you, and I'm also sharing my screen.</p> <p>9 A. Yes, I have it in front of me.</p> <p>10 Q. Okay. So you reviewed this document, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And you see where it says the time for</p> <p>13 the lineup, would you agree that that says 22:30?</p> <p>14 A. I'm trying to find where you're at.</p> <p>15 Q. Apologies, right here.</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. And then would you agree that for</p> <p>18 Forrest Garnett, it says he viewed the lineup at 22:37?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. Okay. Would you agree that for Rosa Burgos,</p> <p>21 it says that she viewed the lineup at 22:40?</p> <p>22 A. I see that.</p> <p>23 Q. Would you agree that for Aby Gonzalez, it says</p> <p>24 he viewed the lineup at 22:43?</p> <p>25 A. Yes, ma'am.</p>	<p style="text-align: right;">Page 73</p> <p>1 A. I do.</p> <p>2 Q. Okay. And lastly, would you agree that this</p> <p>3 document does not have any stamp that says "permanent</p> <p>4 retention file" on it? Feel free to take your time to</p> <p>5 look at it.</p> <p>6 A. So I'm looking at the -- the first page you</p> <p>7 put -- okay. This one here?</p> <p>8 Q. Yes. Either page.</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. And this is what you refer to in your</p> <p>11 report as the Erickson report, the report drafted by</p> <p>12 defendant Erickson; is that correct?</p> <p>13 A. I apologize. I'm looking at my report.</p> <p>14 Q. I suppose back to the document, would you</p> <p>15 agree that here it says the reporting officer printed</p> <p>16 name is Detective William Erickson?</p> <p>17 A. It appears. I see the first two letters. It</p> <p>18 looks like a W.M. And then it looks like it's an E. I</p> <p>19 mean -- I would have to say they --</p> <p>20 Q. Yes. One lineup. Does it say that the</p> <p>21 reporting officer was Detective W.M. Erickson?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Okay, perfect. All right. I'm going to</p> <p>24 briefly stop sharing and then actually re-share Exhibit</p> <p>25 -- well, what we can please mark as Exhibit number 4.</p>

<p style="text-align: right;">Page 74</p> <p>1 (EXHIBIT 4 MARKED FOR IDENTIFICATION)</p> <p>2 MR. BRUEGGEN: Is that RFC Johnson 40?</p> <p>3 MS. MARTINEZ: Yes. 40 and -- apologies. 40</p> <p>4 through 43.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Okay. You reviewed this document, correct --</p> <p>7 apologies. Strike that, please. You reviewed this</p> <p>8 document, is that correct, Mr. Muich?</p> <p>9 A. Correct.</p> <p>10 Q. All right. And do you see where it says the</p> <p>11 time for the lineup right here?</p> <p>12 A. I do.</p> <p>13 Q. Would you agree that it says "23:00 hours"?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And would you agree that this document</p> <p>16 does not have the times that the persons viewing the</p> <p>17 lineup, viewed the lineup?</p> <p>18 A. Yes, there is no time.</p> <p>19 Q. Okay. And would you agree that the date that</p> <p>20 this report was submitted, I think that's Box 91, it's a</p> <p>21 very small print, was June 12, 1991?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And would you agree that it appears</p> <p>24 that the report was approved on July 24, 1991? I</p> <p>25 believe that's box 95?</p>	<p style="text-align: right;">Page 76</p> <p>1 that correct?</p> <p>2 MR. BRUEGGEN: Alyssa, I'm going to give him</p> <p>3 both so he can reference them.</p> <p>4 MS. MARTINE: Okay, perfect. Thank you.</p> <p>5 THE WITNESS: Yes, that is correct.</p> <p>6 BY MS. MARTINEZ:</p> <p>7 Q. Okay. And would you agree that of the six</p> <p>8 witnesses that saw the first lineup, the second report</p> <p>9 lists four of those witnesses as doing that lineup?</p> <p>10 A. That is correct.</p> <p>11 Q. Okay. And in your report, you don't offer any</p> <p>12 opinion as to whether either of these lineups actually</p> <p>13 happened; is that correct?</p> <p>14 MR. BRUEGGEN: Object to form.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. I can rephrase it. In your report, you're</p> <p>17 assuming that both of these lineups happened; is that</p> <p>18 correct?</p> <p>19 MR. BRUEGGEN: Object to form.</p> <p>20 THE WITNESS: Well, I don't want to use the</p> <p>21 word assumed. I'm going by the CPD reports with the</p> <p>22 documentation that does state that both these</p> <p>23 lineups did occur.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. And as pertaining to the second lineup, did</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Correct.</p> <p>2 Q. Okay. And then scrolling down to the third</p> <p>3 page, so RFC Johnson 42, would you agree that it says</p> <p>4 "persons identified in lineup: negative</p> <p>5 lineup"?</p> <p>6 A. Correct.</p> <p>7 Q. And lastly, would you agree that there is a</p> <p>8 stamp on this file that says permanent retention file?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And then so last question for this</p> <p>11 document. Would you agree that the reporting officer as</p> <p>12 listed in Box 93 is Detective Reynaldo Guevara?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Thank you, sir. Stop sharing. Okay.</p> <p>15 So we have these two separate reports detailing lineups</p> <p>16 that happened within half-an-hour of each other with</p> <p>17 four witnesses from the first set being put in the</p> <p>18 lineup in the second. Does that sound correct to you?</p> <p>19 MR. BRUEGGEN: Object to form.</p> <p>20 THE WITNESS: I'm going to need you to --</p> <p>21 MS. MARTINEZ: I can --</p> <p>22 THE WITNESS: -- rephrase that, please.</p> <p>23 BY MS. MARTINEZ:</p> <p>24 Q. Okay. So we have these two separate reports</p> <p>25 that detail lineups approximately half an hour apart; is</p>	<p style="text-align: right;">Page 77</p> <p>1 you find any other factual support in the record that</p> <p>2 that second lineup did occur? This is Exhibit 4.</p> <p>3 A. Just with the documentation that I reviewed.</p> <p>4 Q. In Exhibit 4, that report?</p> <p>5 MR. BRUEGGEN: Go ahead.</p> <p>6 THE WITNESS: That is correct.</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. Okay. And then -- sorry, I don't mean to have</p> <p>9 you flipping between so many documents, but Page 11 in</p> <p>10 your report.</p> <p>11 A. Okay. Page 11.</p> <p>12 Q. Second full paragraph. Yes. Let me know when</p> <p>13 you're there.</p> <p>14 A. Second full paragraph?</p> <p>15 Q. Yes.</p> <p>16 A. Okay. I'm there.</p> <p>17 Q. Okay. So there's a part where you say the</p> <p>18 detectives decided to do a second lineup so they could</p> <p>19 be certain that they had a good identification made</p> <p>20 against the suspect. Do you see that?</p> <p>21 A. I do see that.</p> <p>22 Q. Okay. Would you agree that there is nothing</p> <p>23 in the record that explains why a second lineup might've</p> <p>24 been run?</p> <p>25 A. Correct.</p>



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1 Q. Okay. And in that same paragraph you state,  
2 regardless, running additional lineups with the same  
3 witnesses indicates that there was some concern about  
4 the propriety of the first lineups. Do you see that?

5 A. Yes, I do.

6 Q. Okay. And similarly, would you agree that  
7 there is nothing in the record that explains why a  
8 second lineup might've been run with the same witnesses  
9 and the same suspect?

10 A. Correct.

11 Q. Okay. And now I'm going to share my screen  
12 one more time and then I promise we'll have a quick  
13 break from it. I'm going to share Mr. Tiderington's  
14 report on Page 19. This is Exhibit 5. Make sure it's -  
15 - okay.

16 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

17 THE WITNESS: Page 19; is that correct?

18 BY MS. MARTINEZ:

19 Q. Yes. I found it and also brought it up, if  
20 that's easier. I'm referring to the last paragraph on  
21 Page 19 that says, all of this is in addition to the  
22 positive identification documented in the Erickson  
23 report. I note that it would be highly suspicious and a  
24 gross deviation from accepted police practices to  
25 conduct two lineups within a half hour of each other

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1 with the same witnesses. In my 40 years of police  
2 experience, I have never heard of two lineups being  
3 conducted so close in time. There is no reasonable  
4 explanation for such a procedure. This, in addition to  
5 the evidence above corroborating Erickson's lineup  
6 report and contradicting Guevara's lineup report leads  
7 me to question whether the lineup conducted by Guevara  
8 and documented in his report may not have happened at  
9 all. Do you see that section?

10 A. I do.

11 Q. Okay. And so then my question for you, I  
12 think I can stop sharing this. So my question is, if  
13 the report drafted by Defendant Guevara had been  
14 fabricated and that lineup did not happen, would that  
15 change your opinion about whether the defendants  
16 properly investigated Mr. Johns and his two associates?

17 MR. BRUEGGEN: Object to form. Incomplete  
18 hypothetical. Answer.

19 THE WITNESS: So again, I'm going off of the  
20 CPD records. I do not know why there were two  
21 lineup reports made. I do give an opinion in my  
22 report possibly what could have happened. I've also  
23 gave some details during my experience as a  
24 detective why I reran lineups. I did not give an  
25 opinion on Mr. Tiderington's section that you just

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1 read. But again, this is Mr. Tiderington's opinion,  
2 and if he's calling in a gross whatever he called  
3 it, that's his opinion. And again, I'm only going,  
4 according to the CPD reports, my experience, and I  
5 do give examples of -- I've seen lineups being  
6 rerun. So I hope that answers your question.

7 BY MS. MARTINEZ:

8 Q. Not exactly. So my question posed to you was,  
9 if that report drafted by Defendant Guevara had been  
10 fabricated and that second lineup had not occurred,  
11 would that change your opinion in any way about whether  
12 the investigation by defendant officers into Mr. Johns  
13 was appropriate?

14 MR. BRUEGGEN: Object to form.

15 THE WITNESS: But again, you're giving me a  
16 hypothetical situation. I'm only going according to  
17 the CPD reports and what I'm -- I am reviewing.  
18 Nothing in this report says that the lineup was  
19 fabricated. So again, you're giving me a  
20 hypothetical situation.

21 BY MS. MARTINEZ:

22 Q. I am, but I'm asking you to answer that  
23 hypothetical situation.

24 A. And -- and again, I don't -- I don't -- I  
25 don't want to say feel comfortable saying, giving you an

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1 answer on that. But again, I'm going off of what I  
2 reviewed on the CPD reports. Yes, I do have two lineup  
3 reports. We don't know what the reason is, why there's  
4 two lineup reports, but I'm only going according to what  
5 the CPD reports I reviewed. I can't say that they were  
6 right. They were wrong. I -- I can't give a answer to  
7 a hypothetical situation.

8 Q. Okay. So just for the record, you're choosing  
9 not to respond to that hypothetical question?

10 MR. BRUEGGEN: Objection. Misstates his  
11 testimony.

12 THE WITNESS: Answer?

13 MR. BRUEGGEN: Yeah. You can answer.

14 THE WITNESS: Again, it's a hypothetical  
15 situation. And again, I -- I'm only giving my  
16 opinion on what I viewed and -- and reviewed in the  
17 reports and this one we're talking about, the CPD  
18 records and we're talking I believe what's Exhibit 3  
19 and 4, which are two lineup reports. Again, there's  
20 no documentation why there were two lineup reports.  
21 So I can't say -- in a hypothetical situation, I  
22 cannot answer why there were two lineup reports.

23 BY MS. MARTINEZ:

24 Q. Right. And that's not the question that I'm  
25 asking you. In the hypothetical, I'm asking that if

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1 that second report, Exhibit 4, by Defendant Guevara were  
2 fabricated, would that change your opinions in your  
3 report?

4 A. But I would have to --

5 MR. BRUEGGEN: Object to form. And I need to  
6 clarify. She wants you to assume that the Guevara  
7 report was fabricated.

8 THE WITNESS: Okay.

9 MR. BRUEGGEN: Am I correct there?

10 MS. MARTINEZ: Yes.

11 MR. BRUEGGEN: That's, I think the -  
12 disconnect, if you will. Okay. So --

13 THE WITNESS: Okay. So if you're -- you're  
14 saying that if the Guevara -- hypothetically if the  
15 Guevara report was fabricated?

16 BY MS. MARTINEZ:

17 Q. Yes, sir. Would that affect your opinions  
18 that you gave in the report as to whether Mr. Johns was  
19 fully and appropriately investigated?

20 A. Well, if it -- if there was proof or there was  
21 documentation that the report was fabricated, then my  
22 opinion would be that, of course, there was something  
23 wrong with the -- with the lineup report that if the  
24 report -- if there's documentation that he lied on the  
25 report, it would change my opinion. But again, we're in

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1 a hypothetical situation. I did not view anything in  
2 the CPD reports stating that this report -- lineup  
3 report was fabricated. So I just want to be sure,  
4 because again -- again, I'm not trying to go back and  
5 forth with you. I just want to be sure that I'm saying  
6 it in a hypothetical situation.

7 Q. No. Thank you, sir. I appreciate you  
8 answering the question. And kind of a follow-up to that  
9 question. Assuming Exhibit 4 were fabricated, would it  
10 change your opinion in relation to Defendant Guevara and  
11 whether he committed misconduct in connection with that  
12 report?

13 A. Again, going back to the same situation, if  
14 there was documentation that I reviewed that the report,  
15 the lineup report -- report was fabricated, yes, it  
16 would change my opinion. But again, I would have to see  
17 the proof. We're talking in a hypothetical situation.

18 Q. Okay. So back to your report on Page 3 in the  
19 third full Paragraph -- I'll give you a second to flip  
20 back.

21 A. Okay. I'm back.

22 Q. Okay. So you describe how Elba and Angel  
23 identified Mr. Johnson in the three-man photo; is that  
24 correct?

25 A. Correct.

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1 Q. Okay. And then on Page 7 in the third full  
2 paragraph, you say it was good police work to then show  
3 Elba the three person photo containing Demetrius  
4 Johnson. Do you see that?

5 A. I do.

6 Q. Okay. So I'm going to bring up the photo that  
7 was shown to Elba. We'll mark this as Exhibit 6. Is  
8 this the photo that you were referring to, sir?

9 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

10 THE WITNESS: Yes, it is. Okay.

11 MR. BRUEGGEN: Melissa, we have a hard copy of  
12 that. Is it all four pages that we saw or?

13 MS. MARTINEZ: Just the first page for this  
14 purpose.

15 MR. BRUEGGEN: Okay.

16 THE WITNESS: First page? Got it.

17 BY MS. MARTINEZ:

18 Q. Yes. Okay, perfect. So I'm going to take the  
19 photo down for a second, but I'm going to bring it back  
20 up in just a moment. Would you agree that it's  
21 important to choose fillers that resemble a suspect when  
22 you're doing lineups?

23 MR. BRUEGGEN: Object to form. Incomplete  
24 hypothetical.

25 THE WITNESS: You're going to -- can you

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1 rephrase that for me, please?

2 BY MS. MARTINEZ:

3 Q. Yes. In your experience, would it be in line  
4 with standard policing practices to choose fillers that  
5 look like a suspect?

6 A. To the best of your --

7 MR. BRUEGGEN: Objection. Form. Incomplete  
8 hypothetical. Go ahead, sir.

9 THE WITNESS: To the best of your ability, yes.

10 BY MS. MARTINEZ:

11 Q. Okay. And why is that important?

12 A. Because you want to be sure that you show  
13 whoever you're showing a lineup to a fair lineup. You  
14 want to be sure that they, best of your ability, that  
15 they do look alike, you don't want to put anything  
16 that's going to, you know, hinder the photo lineup with  
17 the witness.

18 Q. And would you agree that this applies to  
19 fillers for both in-person lineups and also photo  
20 lineups and photo arrays?

21 A. Correct.

22 Q. Okay. And so I'll bring the photo back up  
23 now. So if the description of a suspect was that the  
24 suspect was a person who was short, young and black, do  
25 you agree you would want to find other individuals who

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1 were short, young and black?

2 MR. BRUEGGEN: Object to form. Incomplete

3 hypothetical. Go ahead, sir.

4 THE WITNESS: Are you asking me about this

5 photo in general?

6 BY MS. MARTINEZ:

7 Q. Not yet. I'm asking -- I'm asking in general,

8 if those were the three descriptors that you received

9 about a suspect, that they were short, young and black,

10 would you want to include fillers that also were short,

11 young and black?

12 A. Yes.

13 Q. Okay. And so now talking about this photo

14 specifically, would you agree that Mr. Johnson is the

15 shortest person in this photo?

16 A. Yes.

17 Q. Okay. Would you agree that Mr. Johnson

18 appears to be the youngest person in this photo?

19 A. That I do not agree with.

20 Q. Okay.

21 A. I cannot -- I cannot tell the ages of the

22 three participants that are in this photo just by

23 looking at their faces.

24 Q. Okay. Do either of the other individuals in

25 this photo appear young to you?

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1 A. They look young.

2 Q. Okay. Both of them?

3 A. Yes.

4 Q. Okay. As young as Mr. Johnson appears?

5 A. Again, I look at the three photos here. They

6 all appear to be young to me.

7 Q. Okay. Would you agree that not all three men

8 have the same skin tone?

9 A. Well, it appears that there is a little

10 differential, but the skin tone is dark.

11 Q. Okay. And when you say differential, are you

12 referring to the differential between Mr. Johnson in the

13 middle and the man on the left?

14 A. So the man on the left is a little lighter.

15 Q. Okay. Apologies, sir. I didn't mean to cut

16 you off.

17 A. No. And again, I'm looking at a -- I'm

18 looking at a photo here. You know, I don't know the

19 lighting situation. I don't know the backdrop, but to

20 me, I mean, the -- the gentleman on the left is a little

21 bit lighter and then number two and number three,

22 they're darker skin.

23 Q. Okay. Thank you, sir. I'm going to stop

24 sharing again. Okay. So having gone through that,

25 where you -- strike that, please. So after looking at

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1 that photo, you agreed that Mr. Johnson is the shortest

2 person in the lineup and that he has a different skin

3 tone from one of the men in the photo; is that correct?

4 A. Correct.

5 MR. BRUEGGEN: Objection, misstates his

6 testimony. Go ahead.

7 THE WITNESS: Correct. Apologize.

8 BY MS. MARTINEZ:

9 Q. And so with that being said, is it still your

10 opinion that showing this photo to Elba was in line with

11 standards of policing in 1991?

12 A. Yes.

13 Q. Okay. So it's your opinion that having three

14 men who, some of which do not resemble each other or

15 fully match part of the description, is standard police

16 practices in 1991?

17 MR. BRUEGGEN: Objection, misstates his

18 testimony.

19 BY MS. MARTINEZ:

20 Q. You can answer.

21 A. I'm going to -- I'm going to need you to

22 rephrase. I apologize.

23 Q. That's okay. So if your opinion is that

24 showing this photo was in line with standard policing

25 practices, is it then your opinion that having a lineup

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1 with three men, some of which -- strike that, please. So

2 we agreed that your opinion still holds that showing

3 this photo to Elba was in line with standards of

4 policing, correct?

5 A. Correct.

6 Q. Okay. So then is your -- is it your opinion

7 that including fillers that do not resemble the suspect

8 on some of the descriptors of that suspect is

9 appropriate under standard police procedures?

10 MR. BRUEGGEN: Objection. Form. Misstates the

11 testimony, but go ahead.

12 THE WITNESS: So -- I'm going to need you to

13 repeat that. But then I have to say that in my

14 experience, and I've given -- I've been in a lot of

15 lineups, I can't give you an exact number, and even

16 going back to 1995 when I started putting lineups

17 together, you are not going to get a lineup that all

18 five or six individuals are going to look the same.

19 It was just this is, according to my experience,

20 that there are going to be some differentials in the

21 photo. It could be talking skin color a little bit,

22 a little bit off, a little bit of weight, a little

23 bit of height. It just depends. And again, we're

24 talking back in 1991 with this photo, and 1995 again

25 with my experience. Again, I've done a lot of

<p style="text-align: right;">Page 90</p> <p>1 lineups and when I went ahead and had to put a</p> <p>2 lineup together, we were basically pulling Polaroids</p> <p>3 out and trying to put up -- put a lineup together.</p> <p>4 So I just want to go on record to say that there is</p> <p>5 no exact science to putting a lineup together, but</p> <p>6 you want to try to get it as close as you could and</p> <p>7 the best that you could with the circumstances that</p> <p>8 you're dealing with.</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Okay. A quick follow up. Were there any</p> <p>11 descriptors of a suspect that in your experience were</p> <p>12 more important to match than others?</p> <p>13 MR. BRUEGGEN: Object to form. Incomplete</p> <p>14 hypothetical. Go ahead.</p> <p>15 THE WITNESS: Maybe tattoos, scars on the face.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. So --</p> <p>18 A. Missing body limbs. It just -- it would just,</p> <p>19 you know, if you're asking, that would -- that would --</p> <p>20 what would come to mind.</p> <p>21 Q. Would race be one of them?</p> <p>22 A. Race would be one, yes.</p> <p>23 Q. Okay. Great. Thank you, sir. And as it</p> <p>24 pertains to this photo, I'm not going to bring it back</p> <p>25 up, because we don't need to be looking at it anymore.</p>	<p style="text-align: right;">Page 92</p> <p>1 ahead and answer.</p> <p>2 THE WITNESS: I'm sure I have and I've also</p> <p>3 experienced that as time went on, the witness became</p> <p>4 even stronger because sometimes witnesses, they</p> <p>5 witnessed a traumatic event and they were so scared.</p> <p>6 And in this case, I think we could all agree that</p> <p>7 this was some sort of gang related, according to</p> <p>8 Mr. Rider's expert witness testimony, that a -- a</p> <p>9 witness could be scared. And -- and again, I --</p> <p>10 I've ran into situations to where witnesses become</p> <p>11 stronger down the road, so I -- I guess you could --</p> <p>12 you could -- you could see it, I guess.</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Okay.</p> <p>15 A. -- it looked like.</p> <p>16 Q. Okay. I'll pause just to make sure I'm</p> <p>17 understanding your testimony. So is it your opinion</p> <p>18 that in certain instances, the fear and trauma of a</p> <p>19 situation can cause someone to remember the perpetrator</p> <p>20 better as time goes on?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And do you believe that the opposite</p> <p>23 could also be true, that due to the fear and trauma of</p> <p>24 an event, the person was more focused on that aspect and</p> <p>25 thus they forget details as time goes on?</p>
<p style="text-align: right;">Page 91</p> <p>1 But on July 11, 1991, Defendant Guevara supposedly</p> <p>2 showed this picture to Elba Burgos and Angel Cordova</p> <p>3 with both of them identifying Mr. Johnson as the person</p> <p>4 who perpetrated the shooting on June 12, 1991. Would</p> <p>5 you agree that means a month had passed?</p> <p>6 A. Roughly a month, yes.</p> <p>7 Q. Okay. And for clarification, in your report,</p> <p>8 you don't make any opinions as to the decreasing</p> <p>9 reliability of eyewitness identifications over time; is</p> <p>10 that correct?</p> <p>11 A. I do not.</p> <p>12 Q. Okay. But would you agree that memories are</p> <p>13 fallible and eyewitness IDs could become less reliable</p> <p>14 over time?</p> <p>15 MR. BRUEGGEN: Object to form. Beyond the</p> <p>16 scope of this expert.</p> <p>17 THE WITNESS: And my answer would be, I'm not a</p> <p>18 memory expert, so I would have to stick to that</p> <p>19 answer.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Okay. In your experience investigating the</p> <p>22 cases you investigated, did you ever have a situation</p> <p>23 where, as time passed a witness was -- became unable to</p> <p>24 identify the alleged perpetrator of a crime?</p> <p>25 MR. BRUEGGEN: Objection. Speculation. Go</p>	<p style="text-align: right;">Page 93</p> <p>1 MR. BRUEGGEN: Object to form.</p> <p>2 THE WITNESS: It could happen.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Okay. Thank you, sir. As a general matter,</p> <p>5 would you agree that same day identifications tend to be</p> <p>6 more reliable than IDs made a month later?</p> <p>7 MR. BRUEGGEN: Object to form. Beyond scope.</p> <p>8 Go ahead -- incomplete hypothetical. Go ahead, sir.</p> <p>9 THE WITNESS: And again, it just depends on the</p> <p>10 investigation. No two investigations are the same,</p> <p>11 so it -- again, it would just depend on the -- the</p> <p>12 crime, the investigation, what witnesses we're</p> <p>13 dealing with, what suspects we're dealing with. It</p> <p>14 would just -- it would just depend, it would also</p> <p>15 depend even internally how much manpower you would</p> <p>16 have to go out and gather up all these witnesses and</p> <p>17 suspects and do interviews. So again, we're looking</p> <p>18 at a whole broad scope of an investigation, but I --</p> <p>19 like I said, in my, you know, almost 18 years in</p> <p>20 investigations, I can say that no two investigations</p> <p>21 ever were the same.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. Okay. Thank you, sir. And would you agree</p> <p>24 that your report offers no opinion about whether an in-</p> <p>25 person lineup ID can be tainted in any way by seeing a</p>

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1 picture of someone in the lineup beforehand?

2 A. That is correct.

3 Q. So now I'd like to go to Page 4 of your

4 report, which is Exhibit 1 and the third paragraph,

5 please. Okay. And so apologies, the third paragraph

6 below the section titled, Rose Burgos (Witness). And in

7 that paragraph, you state that, "Her statement alone

8 corroborates that she would be able to make an

9 identification if a suspect were presented to her via a

10 lineup or a photo array and both." Do you see that

11 section, sir?

12 A. Is that the one that starts, "The above

13 statement by Rose Burgos"? Okay.

14 MS. MARTINEZ: Perfect. Yes. Perfect. Thanks,

15 David.

16 BY MS. MARTINEZ:

17 Q. So kind of similar to my earlier questioning,

18 are there any time limits to that statement? So I'll

19 rephrase. This statement by Rose was made eight days

20 after the shooting; in your opinion, would Rose still be

21 able to make a clean identification two weeks later?

22 MR. BRUEGGEN: Object to form. Beyond his

23 opinions, but go ahead, sir.

24 THE WITNESS: I would believe she would be able

25 to.

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1 BY MS. MARTINEZ:

2 Q. Okay. What about three weeks?

3 MR. BRUEGGEN: Same objection. Go ahead.

4 THE WITNESS: I believe she would be able to.

5 BY MS. MARTINEZ:

6 Q. Okay. And then what about a month?

7 MR. BRUEGGEN: Same objection. Go ahead, sir.

8 THE WITNESS: I believe she would be able to.

9 BY MS. MARTINEZ:

10 Q. Okay. And what about six months?

11 MR. BRUEGGEN: Objection. Form. Incomplete

12 hypothetical. Go ahead, sir.

13 THE WITNESS: Again, I stick to the same

14 answer, I believe so.

15 BY MS. MARTINEZ:

16 Q. Okay. Is there any kind of end point in your

17 opinion or in your experience by which that ability to

18 make a clean identification decreases?

19 MR. BRUEGGEN: Object to form. Beyond his

20 opinions. Go ahead, sir.

21 THE WITNESS: I don't have an exact date that

22 when you would stop -- start -- or stop remembering

23 somebody's face or action so I -- I cannot answer

24 that question.

25 BY MS. MARTINEZ:

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1 Q. Okay. And in your experience, would it be

2 standard police practice in the early '90s to attempt to

3 evaluate whether an eyewitness was reliable and

4 truthful?

5 A. Yes.

6 Q. Okay. And how would a detective go about

7 that?

8 MR. BRUEGGEN: Object to form. A complete

9 hypothetical. Go ahead, sir.

10 THE WITNESS: You could interview other

11 witnesses, you could interview people who have known

12 him or her. It -- it just depends, it depends which

13 way the investigation is going, but there are

14 different ways.

15 BY MS. MARTINEZ:

16 Q. Okay. And in your experience under standard

17 police practices in 1991, would it be good practice to

18 get a description by the witness of the suspect when

19 interviewing that eyewitness?

20 MR. BRUEGGEN: Object to form. Incomplete

21 hypothetical. Go ahead, sir.

22 THE WITNESS: I would say it would be.

23 BY MS. MARTINEZ:

24 Q. Okay. Would it be good practice to consider

25 the motivations of the eyewitness?

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1 MR. BRUEGGEN: Same objection. Go ahead, sir.

2 THE WITNESS: It could be.

3 BY MS. MARTINEZ:

4 Q. And could -- would it be considered good

5 practice to consider the identity of the party and any

6 potential issues that person would have making a clean

7 identification?

8 MR. BRUEGGEN: Object to form.

9 BY MS. MARTINEZ:

10 Q. You know, for example, if they needed really

11 strong glasses and they weren't wearing their glasses

12 that night, would that be an important consideration?

13 A. Well, again, you're -- you're -- you're giving

14 me a hypothetical. I'm not a, nor was I ever an eye

15 optometrist or -- unless the person told me, listen, I

16 need glasses, I'm legally blind without glasses, then I

17 would take that in effect, but I can't answer that

18 question because again, I'm not an expert in eyesight or

19 optometrist.

20 Q. Okay. So I'm going to share my screen again

21 in what we'll mark Exhibit 7. And that's Bates stamped

22 JGS\_Johnson 1 through 310. And I will be on Page --

23 sorry. One second, stop sharing. There we go. Okay.

24 I'm on Page JGS\_Johnson 66. Let me know when you're

25 there, sir. And I also have it up on the screen.



<p style="text-align: right;">Page 98</p> <p>1 (EXHIBIT 7 MARKED FOR IDENTIFICATION).</p> <p>2 MR. BRUEGGEN: Is it JGS_Johnson, what number?</p> <p>3 MS. MARTINEZ: 66.</p> <p>4 MR. BRUEGGEN: What's -- the large one?</p> <p>5 MS. MARTINEZ: Yeah.</p> <p>6 MR. BRUEGGEN: Oh, all right.</p> <p>7 MS. MARTINEZ: You're good, take your time.</p> <p>8 Okay. Is everybody there?</p> <p>9 MR. BRUEGGEN: Yep.</p> <p>10 MS. MARTINEZ: Okay. I would like to --</p> <p>11 THE WITNESS: I'm sorry, did you say 56 or 66?</p> <p>12 BY MS. MARTINEZ:</p> <p>13 Q. 66.</p> <p>14 A. Oh, okay. Got it.</p> <p>15 Q. So this page of the document is Rose Burgos</p> <p>16 trial testimony in Mr. Johnson's criminal trial, and</p> <p>17 she's being crossed by Deborah Gubin. And so I'd like</p> <p>18 to draw your attention to starting at Line 6, Question,</p> <p>19 "You have made the statement to me, didn't you that you</p> <p>20 had trouble distinguishing Black people because all</p> <p>21 those people look alike to you? Isn't that right?"</p> <p>22 Answer, "Yes. I did say that." I'm going to stop</p> <p>23 sharing because that's the only part that we need. But</p> <p>24 would you agree that cross-racial identifications could</p> <p>25 have an increased likelihood of resulting in mistaken</p>	<p style="text-align: right;">Page 100</p> <p>1 hypothetical. Go ahead, sir.</p> <p>2 THE WITNESS: You would have to take into</p> <p>3 consideration --</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. Or let me --</p> <p>6 A. -- the investigation.</p> <p>7 Q. Apologies, sir, I didn't mean to cut you off.</p> <p>8 So without making any reference to information from your</p> <p>9 attorneys or conversations that you had with your</p> <p>10 attorneys, why did you choose to not include that</p> <p>11 statement in your report?</p> <p>12 MR. BRUEGGEN: Object to form.</p> <p>13 THE WITNESS: What statement?</p> <p>14 MS. MARTINEZ: Apologies, the statement from</p> <p>15 Ms. Burgos about her inability to tell the</p> <p>16 difference between Black individuals?</p> <p>17 MR. BRUEGGEN: Object to form. And as far --</p> <p>18 MS. CARNEY: I think --</p> <p>19 MR. BRUEGGEN: Go ahead.</p> <p>20 MS. CARNEY: I think that misstates the</p> <p>21 testimony that she said. So I think it might be</p> <p>22 beneficial to keep it up on the screen if you're</p> <p>23 going to keep quoting it.</p> <p>24 MS. MARTINEZ: Oh, sure. Yeah. I'll put it</p> <p>25 back up on the screen, it does not go on from there.</p>
<p style="text-align: right;">Page 99</p> <p>1 identifications?</p> <p>2 MR. BRUEGGEN: Objection. Form. Foundation.</p> <p>3 THE WITNESS: They could.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. And you testified earlier that you</p> <p>6 reviewed documents Bates Stamped JGS_Johnson 1 through</p> <p>7 310; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. So you saw this statement; is that</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And why did you choose to not include</p> <p>13 it in your report?</p> <p>14 MR. BRUEGGEN: Object to form. And attorney</p> <p>15 work product to the extent what's included in the</p> <p>16 report or not. You don't need to answer that, sir.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. Okay. So are you refusing to answer that</p> <p>19 question on advice of your Counsel?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Okay. Do you think that a witness that has</p> <p>22 trouble distinguishing between people of a certain race</p> <p>23 would be relevant to the credibility of that witness's</p> <p>24 ID of a person of that race?</p> <p>25 MR. BRUEGGEN: Object to form. Incomplete</p>	<p style="text-align: right;">Page 101</p> <p>1 And I can also bring up the part of</p> <p>2 Mr. Tiderington's report that addresses it. Sorry,</p> <p>3 it's not sharing. Here we go. Okay. So I have it</p> <p>4 on the screen.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. And so I'm going to repeat my question to you,</p> <p>7 sir. Without referencing any conversations with your</p> <p>8 attorney or any information from your attorneys, why did</p> <p>9 you choose to not include this statement in your report?</p> <p>10 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>11 THE WITNESS: Answer?</p> <p>12 MR. BRUEGGEN: Yeah.</p> <p>13 THE WITNESS: Just did not make my report, it -</p> <p>14 - I did not give an opinion on it.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. Okay. And I'd like to repeat my second</p> <p>17 question that I don't think you answered. In your</p> <p>18 experience, would it be relevant if a person --</p> <p>19 apologies, strike that, please. In your experience, if</p> <p>20 an individual had difficulty distinguishing between</p> <p>21 people of a certain race and then were asked to make an</p> <p>22 eyewitness ID of someone of that race, would you have</p> <p>23 concerns as an investigator?</p> <p>24 MR. BRUEGGEN: Objection. Form. Asked and</p> <p>25 answered. Incomplete hypothetical. Go ahead, sir.</p>

<p style="text-align: right;">Page 102</p> <p>1 THE WITNESS: So if I had that situation, that</p> <p>2 hypothetical situation, I would pursue the interview</p> <p>3 more to see if this was just a statement the person</p> <p>4 -- person made or does this person really have, you</p> <p>5 know, concerns. So I think my investigation would</p> <p>6 have to go a little bit further before I would have</p> <p>7 this person do, you know, a lineup or anything.</p> <p>8 Again, I -- I -- I think the answer that -- that I'm</p> <p>9 going to give is -- is my investigation would have</p> <p>10 to go farther.</p> <p>11 MS. MARTINEZ: Okay. And apologies for</p> <p>12 extending the hypothetical, but if that</p> <p>13 investigation went further and you found there was</p> <p>14 credibility to the fact that the eyewitness does</p> <p>15 struggle to distinguish between people of a certain</p> <p>16 race, would that affect their credibility, in your</p> <p>17 opinion?</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. BRUEGGEN: Object to form.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Okay. Thank you, sir. Are the parties okay</p> <p>22 if I take -- if I stop sharing the screen?</p> <p>23 MR. BRUEGGEN: Yeah, that's fine, if you're</p> <p>24 moving on to something else.</p> <p>25 MS. MARTINEZ: Yes.</p>	<p style="text-align: right;">Page 104</p> <p>1 reliability of their identification of a young, Black</p> <p>2 male?</p> <p>3 A. Absolutely not, my opinion still stands.</p> <p>4 Q. Okay. Oh.</p> <p>5 MR. BRUEGGEN: That's a pretty picture.</p> <p>6 MS. MARTINEZ: Apologies. I can't -- yeah,</p> <p>7 sorry. Thank you, not mine. I have my notes over</p> <p>8 my keyboard, which is not the best set up. Okay.</p> <p>9 Let me just quickly make sure I don't have any other</p> <p>10 questions about this exhibit. All right. I'll</p> <p>11 pause.</p> <p>12 BY MS. MARTINEZ:</p> <p>13 Q. Related to the answer you just gave, sir, why</p> <p>14 would that not affect your opinion?</p> <p>15 MR. BRUEGGEN: Object to form.</p> <p>16 THE WITNESS: Can we go back to the --</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. Yes.</p> <p>19 THE WITNESS: -- question and answer?</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Yes. So I had asked you about now knowing</p> <p>22 that Elba, Rose, and Ricardo are white Hispanic, would</p> <p>23 that -- did that -- would that affect your opinion on</p> <p>24 whether they were able to make credible identifications</p> <p>25 of a young, Black male? And you said that it would not</p>
<p style="text-align: right;">Page 103</p> <p>1 MR. BRUEGGEN: And if you are, we can take a</p> <p>2 break here either now or think -- stop to --</p> <p>3 continue on and we'll move to another topic?</p> <p>4 MS. MARTINEZ: I have a few more questions</p> <p>5 related to this line and then we can break for</p> <p>6 lunch, does that sound good?</p> <p>7 MR. BRUEGGEN: Yeah, I don't know if we need a</p> <p>8 full on lunch, but we can take a longer break than</p> <p>9 we did, so.</p> <p>10 MS. MARTINEZ: Okay. Perfect. Yes.</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. So just a few more questions for you, sir</p> <p>13 about this exhibit. Have you ever received any training</p> <p>14 on cross-racial identifications?</p> <p>15 A. Not to my knowledge. I -- I don't believe so,</p> <p>16 nothing that comes to mind.</p> <p>17 Q. Okay. And were you aware at the time of</p> <p>18 writing your report that Elba Burgos, Rose Burgos and</p> <p>19 Ricardo Burgos are all white and Hispanic?</p> <p>20 MR. BRUEGGEN: Object to foundation.</p> <p>21 THE WITNESS: I did not know what their race</p> <p>22 was.</p> <p>23 BY MS. MARTINEZ:</p> <p>24 Q. Okay. Now, knowing what their race is, does</p> <p>25 it change your opinions at all concerning the</p>	<p style="text-align: right;">Page 105</p> <p>1 affect your opinion whatsoever. And so then my</p> <p>2 follow-up question is: Why would it not affect your</p> <p>3 opinion?</p> <p>4 A. So again, with my experience, it didn't matter</p> <p>5 to me if a witness -- an eyewitness was white, Black,</p> <p>6 yellow, red, blue, green, it didn't matter. I would</p> <p>7 just interview the witness and I would want to know if</p> <p>8 they could make a good identification. If they could</p> <p>9 make a good identification they can, if they can't, they</p> <p>10 can't, they -- they don't, I move on. So again, this is</p> <p>11 in my own -- my experience to me it doesn't matter when</p> <p>12 you're saying a white Hispanic, that -- that has no</p> <p>13 bearing on my opinion whatsoever.</p> <p>14 MS. MARTINEZ: Okay. That was the last</p> <p>15 question that I had for that exhibit so if it works</p> <p>16 for the parties, it's 12:10 right now, do we want to</p> <p>17 come back at 12:50, 1:00?</p> <p>18 MR. BRUEGGEN: I guess, Alyssa, do you have a</p> <p>19 general idea of how long you're taking stuff? Are</p> <p>20 you -- the full seven hours or? I'm just thinking -</p> <p>21 -</p> <p>22 MS. MARTINEZ: No.</p> <p>23 MR. BRUEGGEN: -- because it's going to be --</p> <p>24 no? Okay.</p> <p>25 MS. MARTINEZ: No. I mean, I probably have two</p>



<p style="text-align: right;">Page 106</p> <p>1 to three hours more worth of questions.</p> <p>2 MR. BRUEGGEN: Okay. Yeah. I mean, if you</p> <p>3 want to take a longer break so that you can grab</p> <p>4 something to eat, that's fine. We don't necessarily</p> <p>5 -- are you -- Ron, do you need to take a longer</p> <p>6 break to get food or no?</p> <p>7 THE WITNESS: I'm good.</p> <p>8 MR. BRUEGGEN: So we'll defer to you, if you</p> <p>9 want to take a half an hour or so that's fine by us.</p> <p>10 MS. MARTINEZ: Okay. Let's do let's do till</p> <p>11 12:50. Let's do till 12:50.</p> <p>12 THE WITNESS: Okay. All right.</p> <p>13 MS. MARTINEZ: Okay. Great. Okay. Thank you</p> <p>14 everyone.</p> <p>15 MR. BRUEGGEN: Thank you.</p> <p>16 THE REPORTER: Okay. The time is 12:11 p.m.</p> <p>17 Central and we are going off record.</p> <p>18 MS. MARTINEZ: Recording stopped.</p> <p>19 (OFF THE RECORD)</p> <p>20 THE REPORTER: Okay. We are back on record for</p> <p>21 the deposition of Ronald Muich being conducted by a</p> <p>22 video conference. My name is Kyra Tate. Today is</p> <p>23 November 15, 2023. The time is 12:51 p.m. Central.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. So Mr. Muich, I'd like you to look back at</p>	<p style="text-align: right;">Page 108</p> <p>1 Ricardo -- Ricardo did say in -- in court that he</p> <p>2 did say he was Black.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Okay. And when you say a typo on CPDs end,</p> <p>5 are you referring to the first statement he gave where</p> <p>6 he described the suspect as being Hispanic?</p> <p>7 A. Yes. The one that's in quotations and the way</p> <p>8 he spells it or the way whoever typed up the report was</p> <p>9 Hispanage. So I'm tending to believe in my opinion that</p> <p>10 was just a typo because, again, he testified under oath</p> <p>11 that the person he saw was Black.</p> <p>12 Q. Okay. And you're referring to the testimony</p> <p>13 that you put on Page 8 of your report? In that second</p> <p>14 paragraph, that's italicized.</p> <p>15 A. Yes, because he does point him out. He does</p> <p>16 point him out in open court.</p> <p>17 Q. Okay. And then just to make sure I'm fully</p> <p>18 understanding your testimony, when you read this</p> <p>19 statement from CPD about what Ricardo said, you assumed</p> <p>20 that the word "Hispanic" after "male Hispanic" was the</p> <p>21 typo?</p> <p>22 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>23 THE WITNESS: The first time I read it, it went</p> <p>24 into my mind that it possibly could have been a</p> <p>25 typo. And then when I read Ricardo's testimony</p>
<p style="text-align: right;">Page 107</p> <p>1 your report, Exhibit 1, Page 9, the second full</p> <p>2 paragraph.</p> <p>3 A. Okay.</p> <p>4 Q. So in that paragraph, you state, "The only</p> <p>5 discrepancy was the race of the person he saw," and this</p> <p>6 is regarding Mr. Ricardo Burgos's testimony; is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. All right. And then further down in that same</p> <p>10 paragraph, you state, "There is no other documentation</p> <p>11 in any other reports or court testimony that I reviewed</p> <p>12 that would indicate why Ricardo Burgos gave two</p> <p>13 different races." Is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Okay. So is it your opinion that eyewitness</p> <p>16 identifications that changed the purported race of the</p> <p>17 suspect do not make that identification unreliable?</p> <p>18 MR. BRUEGGEN: Object to form. Incomplete</p> <p>19 hypothetical. Go ahead, sir.</p> <p>20 THE WITNESS: So in my reports that I did</p> <p>21 review and Ricardo Burgos's testimony at Court, he</p> <p>22 did testify under oath that the person he saw was</p> <p>23 Black. So in my own opinion, I believe that was</p> <p>24 either a mistake on the CPDs end, a typo, or I have</p> <p>25 no other explanation. But again, I'm taking what</p>	<p style="text-align: right;">Page 109</p> <p>1 again, under oath that it was Black, that's when I</p> <p>2 came to conclusion that it possibly could have been</p> <p>3 a -- a -- a typo -- a typo on the report writer's</p> <p>4 end, whoever did that report.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Okay. So if that were not a typo and</p> <p>7 Mr. Burgos did first testify that he thought the</p> <p>8 perpetrator was Hispanic and then later changed his</p> <p>9 opinion to say that the perpetrator were Black, would</p> <p>10 that, in your opinion, call his identification into</p> <p>11 question?</p> <p>12 A. Sure.</p> <p>13 MR. BRUEGGEN: Form.</p> <p>14 THE WITNESS: Sure, if that was the</p> <p>15 circumstances in that hypothetical situation, that</p> <p>16 would change the whole aspect of his testimony and</p> <p>17 his statement at the beginning. So yes.</p> <p>18 BY MS. MARTINEZ:</p> <p>19 Q. Okay. And, in your opinion, is it common for</p> <p>20 -- apologies. Strike that, please. Along this same</p> <p>21 hypothetical where, in his first testimony, he did state</p> <p>22 that the perpetrator was male and Hispanic, is it your</p> <p>23 experience that because -- in your experience, is it</p> <p>24 common for witnesses who purport to have witnessed a</p> <p>25 crime happening for 45 seconds to change the race of the</p>

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1 person that they saw during that event?

2 MR. BRUEGGEN: Objection, misstates the  
3 testimony, and form. Go ahead.

4 THE WITNESS: So again, I -- I can't take any  
5 of my experiences to say I had a situation where it  
6 was 45 seconds, and this is what happened. I -- I --  
7 - I can't do that. I've had I've had numerous  
8 investigations, but again, I would interview a  
9 witness, which I've interviewed numerous witnesses  
10 and suspects throughout my career, and basically I  
11 would take their -- their interview, I would take  
12 their statement, and I would question them further.  
13 If I felt that there was something wrong with their  
14 statement, I would -- I would question them further.  
15 Again, that's what that's what me being in my  
16 position for 18 plus years in investigations. You  
17 know, my experience, the more witnesses that I  
18 talked to and did interview, of course, I became  
19 better. You know, you -- you start you start with  
20 your training, you know, interviewing witnesses and  
21 suspects, but then you have to take that to real  
22 life. And the more you do it, the more you get  
23 better. And, you know, again, that would be my  
24 situation if I thought the statement was a little --  
25 I needed to ask more questions, I would. Because

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1 again, that would be going back to my experience.

2 BY MS. MARTINEZ:

3 Q. Okay. So in your experience, have you ever  
4 had a witness change the race that they said the suspect  
5 was?

6 A. I cannot answer that. I -- I don't know. I  
7 have no specific investigation I can answer that  
8 question.

9 Q. Okay. Just so -- off the top of your head  
10 right now, you don't recall that ever happening?

11 A. In my experience, I do not recall that.

12 Q. Okay. And just for clarification again, to  
13 make sure I'm understanding your testimony, in drafting  
14 your report, you made the assumption that there was a  
15 typo and that Mr. Burgos's testimony across the  
16 different times he spoke with officers was that the  
17 perpetrator was Black?

18 MR. BRUEGGEN: Objection, misstates the record,  
19 and form. Go ahead.

20 THE WITNESS: I'm going to need you to repeat  
21 that question, please.

22 BY MS. MARTINEZ:

23 Q. Okay. Let's see. I can -- let me -- earlier,  
24 you had mentioned that you had testified that you  
25 assumed that the male Hispanic from the quote on page 8

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1 was a typo. And how did you decide that that was --  
2 strike this, please. Strike that, please. Okay. Why  
3 did you assume that his testimony in open court was  
4 correct and that this earlier statement was a typo?

5 MR. BRUEGGEN: Objection. Form. Go ahead.

6 THE WITNESS: So when I started reviewing the  
7 CPD records and I did come across the, and I'm going  
8 to say now the -- the Hispanic, I -- I -- I didn't  
9 know what that -- what that was. I knew how to  
10 spell Hispanic. I didn't know how to spell the  
11 Hispanic. I didn't know if that was just a  
12 different way of saying Hispanic. So I kept that in  
13 mind. And as I went to reviewing my reports,  
14 documentation, and I got to the trial testimony,  
15 that's when I came upon Ricardo's testimony that  
16 again, under oath, that he said the individual was  
17 Black. So I'm taking his trial testimony, which is  
18 under oath, and he's saying it's -- the person's  
19 Black. So my opinion is that -- that was a -- a  
20 typo on the CPDs end and that he is testifying to  
21 the person that was Black. So again, I have to come  
22 to some sort of conclusion when I see those two  
23 situations.

24 BY MS. MARTINEZ:

25 Q. Okay. And if his statement to police that the

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1 perpetrator were Hispanic were true, in your opinion,  
2 then would the investigation into Mr. Johnson be  
3 questionable pertaining to his identification to  
4 Mr. Ricardo's identification?

5 MR. BRUEGGEN: Object to form.

6 THE WITNESS: If Mr. Burgos told him that he  
7 was Hispanic and that's the way they took it, I'm  
8 going to assume again, with my experience, if I was  
9 told that -- that I was looking for a male Hispanic,  
10 I would not be talking to a male Black or I would  
11 have to take into consideration. Again, you know, I  
12 don't know how dark skin is on a Hispanic or how  
13 dark skin is on a male Black. It just depends all  
14 those situations. So again, I'm just showing  
15 according to Ricardo Burgos's testimony that he said  
16 under oath that the individual was Black.

17 BY MS. MARTINEZ:

18 Q. Okay. Thank you, sir. And would you agree  
19 that, for identification purposes, it's more useful to  
20 know the amount of time a witness saw the suspect's face  
21 as opposed to seeing the crime in general?

22 MR. BRUEGGEN: Object to form. Vague.

23 THE WITNESS: Again, depending on the  
24 situation. Person could've seen the suspect for a  
25 few seconds, but we get a good identification. They

<p style="text-align: right;">Page 114</p> <p>1 could've seen a suspect for a minute, get a bad</p> <p>2 identification vice versa. You just don't know,</p> <p>3 different situations. There is no exact science in</p> <p>4 that statement there or that question you just asked</p> <p>5 me.</p> <p>6 BY MS. MARTINEZ:</p> <p>7 Q. Okay. So in your opinion, sir, if you have</p> <p>8 eyewitnesses to a crime where the longest anyone saw the</p> <p>9 perpetrator's face was four to five seconds at max,</p> <p>10 would you have any reservations about their</p> <p>11 identifications of the perpetrator?</p> <p>12 A. No, not --</p> <p>13 MR. BRUEGGEN: Object to form, incomplete</p> <p>14 hypothetical. Go ahead.</p> <p>15 THE WITNESS: Not at all.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. Okay. What if in this hypothetical, the</p> <p>18 longest anyone saw the person's face was two seconds?</p> <p>19 MR. BRUEGGEN: Same objections. Go ahead.</p> <p>20 THE WITNESS: Again, I would have no problem</p> <p>21 whatsoever. I'm interviewing the witness and</p> <p>22 they're giving me the identification and I feel that</p> <p>23 the identification is strong to me, I don't care how</p> <p>24 long they saw the person for. If it was one second</p> <p>25 or 60 seconds or three minutes, it doesn't matter to</p>	<p style="text-align: right;">Page 116</p> <p>1 do still have some sort of identification and I can take</p> <p>2 my investigation further with that information.</p> <p>3 Q. Okay. And sir, would you agree that there is</p> <p>4 nothing in the record that would support any other</p> <p>5 identifying feature that Mr. Ricardo Burgos saw of the</p> <p>6 perpetrator of the shooting on June 12th?</p> <p>7 A. I would have to look at my report.</p> <p>8 MR. BRUEGGEN: Object.</p> <p>9 MS. MARTINEZ: No, please go ahead.</p> <p>10 MR. BRUEGGEN: Other identifying feature?</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. Yes. Apologize. In line with your answer,</p> <p>13 any tattoo, missing limb, was there anything else that</p> <p>14 Mr. Ricardo Burgos might -- that -- in your review, that</p> <p>15 he saw that might have helped him identify who the</p> <p>16 perpetrator was?</p> <p>17 A. No. He did say that he -- he observed them</p> <p>18 for about 45 seconds in his statement.</p> <p>19 Q. Yes. Okay. So now I'd like you to go to --</p> <p>20 oh, still Page 9, but the last paragraph. And it</p> <p>21 continues on to Page 10, where you say, quote, "A</p> <p>22 shooting like what happened in daylight on a busy street</p> <p>23 would be a chaotic scene, which in turn leads to varying</p> <p>24 witness statements, including the number of attackers."</p> <p>25 Do you see that, sir?</p>
<p style="text-align: right;">Page 115</p> <p>1 me. I have to take the whole totality of the</p> <p>2 interview and the whole totality of investigation at</p> <p>3 hand.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. And if a witness testified that they</p> <p>6 never saw the shooter's face, would you have</p> <p>7 reservations about their eyewitness identification?</p> <p>8 MR. BRUEGGEN: Object to form. Incomplete</p> <p>9 hypothetical. Go ahead.</p> <p>10 THE WITNESS: If a witness told me they never</p> <p>11 saw the person's face, I --</p> <p>12 BY MS. MARTINEZ:</p> <p>13 Q. Yes, sir.</p> <p>14 A. I would assume that they didn't see the</p> <p>15 person, because they're telling me they didn't see their</p> <p>16 face.</p> <p>17 Q. Okay. So --</p> <p>18 A. Unless they're telling me -- unless they're</p> <p>19 telling me that, you know, the individual was missing a</p> <p>20 limb or some other, you know, identification on the</p> <p>21 body, a -- a tattoo, then I would have to take that in</p> <p>22 consideration. Okay, the individual witness did not see</p> <p>23 the face, but they saw a pink elephant on his or her</p> <p>24 left arm. Okay. Well, I have some sort of</p> <p>25 identification, even though they didn't see the face, I</p>	<p style="text-align: right;">Page 117</p> <p>1 A. I do.</p> <p>2 Q. Okay. And then continuing on to Page 10, you</p> <p>3 conclude that there was only one assailant. Do you see</p> <p>4 that, sir?</p> <p>5 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>6 BY MS. MARTINEZ:</p> <p>7 Q. It's the end of the first full paragraph on</p> <p>8 page 10?</p> <p>9 A. Yes. I'm just finishing reading after --</p> <p>10 okay. I see.</p> <p>11 Q. Okay. So on what sources do you rely to</p> <p>12 definitively assume that there was only one attacker?</p> <p>13 A. Well, again, when you're responding to a</p> <p>14 scene, again, in my experience, and I've responded to</p> <p>15 numerous chaotic scenes where you have individuals who</p> <p>16 are witnessing it or just seeing the aftereffects,</p> <p>17 calling 911, trying to get their information to the</p> <p>18 police, and the information is being relayed to</p> <p>19 responding units, including myself. You're not going to</p> <p>20 know if there's one attacker, two attackers, 10</p> <p>21 attackers, until you actually get on the scene and you</p> <p>22 start interviewing witnesses and trying to corroborate</p> <p>23 all their stories and figure out how many attackers, how</p> <p>24 many suspects there were.</p> <p>25 I give an example in my report about the mall</p>

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1 shooting that we had at Rosemont and I was leaving the  
2 Allstate Arena under the assumption that there was an  
3 active shooter or shooters in the mall. And until I  
4 arrived on scene and it was later on that it was -- well  
5 later on determined that it was just one shooter, it was  
6 an isolated incident. But again, talking about myself  
7 and my experience, I went there thinking that we had  
8 numerous attacker -- or numerous shooters. You don't  
9 know that, and you don't assume that until you get all  
10 the information and you let the evidence -- or you let  
11 the investigation lead to where the evidence is going to  
12 take you. And that's when you make your assumptions.

13 **Q. I appreciate that, sir. My question for you**  
14 **is: What is the factual basis on which you rely in**  
15 **assuming in your report that there was, the -- as you**  
16 **say, a single suspect?**

17 **A.** Well, you can go back to -- we can go back to  
18 the one individual that -- that did make the  
19 identification, Aby Gonzalez. He basically said that  
20 there was one -- that there was one shooter in his  
21 statement. So you know, we -- I know we talked about  
22 his identification and his -- and then his negative  
23 lineup. But again, you -- you have him right there  
24 saying that there was just one shooter. And again, when  
25 the police went to the scene, again, they were getting

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1 the information that it was Lil John -- Bryan Johnson,  
2 and then they said there was attackers. Again, they have  
3 to -- they have to investigate. Again, with my  
4 experience, you have to investigate the scene, you have  
5 to talk to witnesses and then you'll figure out if there  
6 was one shooter or two shooter.

7 **Q. Okay. A quick point to that, and I can share**  
8 **my screen if that would be easier. But in Exhibit 5,**  
9 **Mr. Tiderington cites to the CPD report prepared by**  
10 **Officer Hernandez, which lists that Aby Gonzalez**  
11 **actually identified two separate offenders in his**  
12 **statements to that officer. And so is there anything**  
13 **else that you found in the record that supports your**  
14 **assertion that there was only one attacker, outside of**  
15 **Aby Gonzalez?**

16 **A.** Again, I'm going to -- I'm going to let the --  
17 the -- the officers who did the investigation. They  
18 eventually got on scene. I know they took Bryan Johns  
19 into custody. They did their lineups. And -- and  
20 again, my experience, even after someone was taken into  
21 custody, we would still be getting calls. We would be  
22 talking to witnesses that would say there were numerous  
23 attackers or numerous shooters or numerous suspects. But  
24 again, with the documents that I reviewed, that never  
25 went past that initial broadcast with the so-called

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1 attackers. So again, with my experience, just because I  
2 heard the word attackers, I'm not going to keep looking  
3 for attackers when the evidence doesn't show that there  
4 was more than one attacker. So that's what I'm -- my  
5 opinion is that after they were able to interview  
6 witnesses, sort out the scene, that they determined that  
7 there was just one shooter.

8 **Q. Okay. And just to clarify, you were not**  
9 **pointing to any specific witness or specific interview**  
10 **that rules out the premise that there might be two**  
11 **shooters. You're just saying in general, that's the**  
12 **process the officers would take to rule that out; is**  
13 **that correct?**

14 **MR. BRUEGGEN:** Objection. Form. Misstates his  
15 testimony. Go ahead, sir.

16 **THE WITNESS:** And I'm also going according to  
17 the CPD reports, there was just the one incident to  
18 where it was attackers. So again, it never  
19 mentioned again in the report that they brought in  
20 numerous attackers or there was two shooters or  
21 there was two descriptions. So I believe that  
22 again, that Chicago Police did their job, they did  
23 their investigation to where they determined that  
24 there was one shooter.

25 **BY MS. MARTINEZ:**

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1 **Q. Okay. And if it had turned out that the**  
2 **shooting was perpetrated by two separate individuals,**  
3 **would that change your opinion on whether or not the**  
4 **investigation was appropriate?**

5 **MR. BRUEGGEN:** Object to form. Go ahead.

6 **THE WITNESS:** Well, if the evidence led that  
7 there were two shooters, then the police would be  
8 looking for two shooters. That's what I would do.

9 **BY MS. MARTINEZ:**

10 **Q. So in your opinion, again, following this --**  
11 **the same hypothetical, and there were two shooters, the**  
12 **fact that the officers in this case did not fully pursue**  
13 **that lead and only identified one person, would that not**  
14 **be a proper investigation?**

15 **MR. BRUEGGEN:** Objection. Form.

16 **THE WITNESS:** But you're saying that they  
17 didn't properly follow the leads when they --  
18 according to their reports, they did follow the  
19 leads that there was only one shooter because that's  
20 basically what their conclusion was, that there was  
21 one shooter. And again, if the evidence would've  
22 led that there would be two shooters and they didn't  
23 do that, yes. Then it would've been wrong that they  
24 didn't go after the second shooter. But the  
25 evidence and the reports don't show it that way in

<p style="text-align: right;">Page 122</p> <p>1 the investigation.</p> <p>2 BY MS. MARTINEZ:</p> <p>3 Q. Okay. Thank you, sir. Okay. On Page 12 in</p> <p>4 the third full paragraph of your report -- let me know</p> <p>5 when you're there.</p> <p>6 A. I'm on Page 12.</p> <p>7 Q. Okay, perfect. In the third full paragraph,</p> <p>8 you state, "The detectives did not have tunnel vision."</p> <p>9 How would you -- oh, apologies. Are you there, sir?</p> <p>10 A. I am.</p> <p>11 Q. Okay. How would you define tunnel vision?</p> <p>12 A. Well, I don't use the word tunnel vision. I</p> <p>13 never has -- have used the word tunnel vision in any of</p> <p>14 my experiences in my investigations. Because when I</p> <p>15 investigated, I looked at everything. But if you're</p> <p>16 asking me what I think tunnel vision means, and I never</p> <p>17 looked up the word tunnel vision, any kind of</p> <p>18 definition, but I would say tunnel vision is that you</p> <p>19 focus on one object, one person, one thing in general,</p> <p>20 and just keep going after that object, person, whatever.</p> <p>21 That's a definition of tunnel vision in -- in my -- but</p> <p>22 again, I never looked up the word tunnel vision.</p> <p>23 Q. Okay. And from your understanding of that</p> <p>24 term and then stating that the detectives did not have</p> <p>25 tunnel vision, what is the factual basis for that</p>	<p style="text-align: right;">Page 124</p> <p>1 tunnel vision. They went on with their investigation.</p> <p>2 They took the investigation. They looked at all the</p> <p>3 evidence and they led to a different suspect and they</p> <p>4 furthered that investigation. And then they brought the</p> <p>5 whole case to felony review. Felony review approved the</p> <p>6 charges, and then that was turned over to the Court's</p> <p>7 hand. And that was for a judge and jury to decide. So</p> <p>8 again, the word tunnel vision, there was no tunnel</p> <p>9 vision in this case. I believe that they -- that they</p> <p>10 would've had tunnel vision if they just would've charged</p> <p>11 Bryan Johns with the, I believe, lack of information</p> <p>12 that they had. But I believe they did do it. And I put</p> <p>13 in my report, they did their due diligence and they</p> <p>14 expanded the investigation and they uncovered a</p> <p>15 different suspect.</p> <p>16 Q. Okay. A quick follow up to that. In your</p> <p>17 review of the materials, did you find anything in the</p> <p>18 record that states why Mr. Johns was never spoken to</p> <p>19 again after being released that night?</p> <p>20 A. I did not see anything.</p> <p>21 Q. Okay. In your opinion, would that be unusual</p> <p>22 under standard police procedures to have an eyewitness</p> <p>23 ID a suspect and then have that suspect be released and</p> <p>24 never spoken to again?</p> <p>25 MR. BRUEGGEN: Object to form.</p>
<p style="text-align: right;">Page 123</p> <p>1 opinion?</p> <p>2 A. Well, they took an initial report. They did</p> <p>3 hear that -- saw a suspect was possibly Lil John -- Lil</p> <p>4 John or I'm sorry, Lil -- Lil D and Bryan Johnson. Okay.</p> <p>5 Officer Daley, knowing Lil D, which I believe he did a --</p> <p>6 -- a very good job, you know, taking him into custody to</p> <p>7 do a further investigation. And they brought Bryan</p> <p>8 Johns in, did -- did lineups with him. Now, if you want</p> <p>9 to talk about tunnel vision, the detectives could've had</p> <p>10 tunnel vision right then and there. They had what</p> <p>11 Detective -- or Officer Daley would describe as Bryan</p> <p>12 Johns. His name is -- street name is Lil D, who Officer</p> <p>13 Daley in the 14th District basically served nine years</p> <p>14 under, you know, knowing all the -- the gang members,</p> <p>15 all the players in that area. They could've just went</p> <p>16 ahead and charged Bryan Johns with Aby Gonzalez's</p> <p>17 identification. But they didn't. They -- they -- first</p> <p>18 six lineups, five were negative. Aby Gonzalez</p> <p>19 identified for whatever reason, we don't know. I don't</p> <p>20 think any of us know why they re-ran the lineups.</p> <p>21 Second time they re-ran the lineups, which I did -- I do</p> <p>22 give examples in my report, four people did not pick out</p> <p>23 the suspect. Again, if they would've just charged right</p> <p>24 then and there, okay, then I guess I can agree with that</p> <p>25 word, tunnel vision. But the detectives didn't have</p>	<p style="text-align: right;">Page 125</p> <p>1 THE WITNESS: Well, again, we don't know why</p> <p>2 there was a second lineup that was rerun. Whatever</p> <p>3 information the detectives could've gotten during</p> <p>4 those two lineups. They could've deemed that Aby</p> <p>5 Gonzalez was not a credible witness. Again, we</p> <p>6 don't know. And in my experience, if I don't have a</p> <p>7 credible witness, I'm going to move on. I'm not</p> <p>8 going to -- I'm not going to keep pursuing that</p> <p>9 witness. And I gave you an example in my report</p> <p>10 when I did have an identification and then the --</p> <p>11 the -- the female witness basically recanted her</p> <p>12 statement. So I reran a lineup and she didn't pick</p> <p>13 anybody out. I was okay with that. I would rather</p> <p>14 have it that way than have some sort of unbelievable</p> <p>15 identification. So you know, I -- I --</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. So in -- apologies, sir. I didn't mean to cut</p> <p>18 you off.</p> <p>19 A. No, that's okay. I was just saying again, I</p> <p>20 gave you an example in my -- in my report.</p> <p>21 Q. So in that same vein, would you then expect</p> <p>22 there to be some form of documentation as to why an IDed</p> <p>23 suspect was no longer considered a lead?</p> <p>24 MR. BRUEGGEN: Object to form.</p> <p>25 THE WITNESS: I mean, there could be a report.</p>



<p style="text-align: right;">Page 126</p> <p>1 There could be a supplemental report. I don't know.</p> <p>2 I mean, we know that it's an incomplete file. We</p> <p>3 don't know if a report ever was constructed. We</p> <p>4 don't know that. I mean, if we -- if we had the</p> <p>5 whole complete file, I think we would be on</p> <p>6 different circumstances here. But we do know that</p> <p>7 we -- we have an incomplete file. And again, I'm</p> <p>8 trying to take the information that I have and I'm</p> <p>9 trying to form an opinion on it and try to give the</p> <p>10 answers to the best that I can. And again, I don't</p> <p>11 have all the exact answers. And I'm just giving you</p> <p>12 some of my experience of possibly why this would've</p> <p>13 happened.</p> <p>14 BY MS. MARTINEZ:</p> <p>15 Q. Yes, sir. And in your experience, would you</p> <p>16 expect there to be some kind of supplemental report in</p> <p>17 the full file about why an IDed suspect was no longer</p> <p>18 being considered as a suspect?</p> <p>19 A. I would expect a -- some sort of report to be</p> <p>20 in there.</p> <p>21 Q. Okay.</p> <p>22 A. And that would be a complete file.</p> <p>23 Q. Okay. And then to quickly backtrack to tunnel</p> <p>24 vision again, you explained the basis for believing that</p> <p>25 the officers did not have tunnel vision when it comes to</p>	<p style="text-align: right;">Page 128</p> <p>1 two line sentence in my supplemental report.</p> <p>2 BY MS. MARTINEZ:</p> <p>3 Q. Would you agree that the lack of documentation</p> <p>4 makes it difficult to ascertain if this investigation</p> <p>5 was proper into Mr. Johns?</p> <p>6 MR. BRUEGGEN: Objection. Form.</p> <p>7 THE WITNESS: Well, you're going to call it</p> <p>8 lack of documentation. I'm going to call it missing</p> <p>9 paperwork in the file. So with that missing</p> <p>10 paperwork in the file, it -- it is tough to answer</p> <p>11 some of these questions. And again, if we had the</p> <p>12 full file and everybody agreed it was the full file,</p> <p>13 I think we would get some of these -- these</p> <p>14 questions answered. But unfortunately we don't have</p> <p>15 the full file. And this is why me and you are</p> <p>16 sitting talking over Zoom.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. Absolutely. And just to be clear, you are</p> <p>19 assuming that the supplemental reports in these</p> <p>20 documents that talk about why Mr. Johns is no longer a</p> <p>21 suspect were created, correct?</p> <p>22 A. I would think they were created. Maybe they</p> <p>23 were created. I don't have an answer for that because</p> <p>24 again, I wasn't there and I don't have any documentation</p> <p>25 to support my opinion on that. I can give you</p>
<p style="text-align: right;">Page 127</p> <p>1 Mr. Johns. Can you please tell me your factual basis</p> <p>2 for not believing the officer's had tunnel vision with</p> <p>3 regard to Plaintiff Mr. Johnson?</p> <p>4 MR. BRUEGGEN: Object to form. Misstates his</p> <p>5 testimony. Go ahead.</p> <p>6 THE WITNESS: Again, because I'm reviewing all</p> <p>7 the documentation and again, there had to be</p> <p>8 something between that first lineup with Aby</p> <p>9 Gonzalez and that second lineup with Aby Gonzalez.</p> <p>10 There had to be a reason why the detectives released</p> <p>11 him, continued investigation, and moved on. And if</p> <p>12 they still thought Bryan Johns was a suspect due to</p> <p>13 Aby Gonzalez's identification, I would think that</p> <p>14 there would be more documentation, unless it's</p> <p>15 missing, why they were still going after him, why</p> <p>16 they thought he was a suspect. But again, in my</p> <p>17 experience, if I have a suspect and the suspect is</p> <p>18 not IDed or I don't like the witness's credibility</p> <p>19 and I let the suspect go, it's over. I'm -- I'm</p> <p>20 done with this -- I'm done with that suspect. I'm</p> <p>21 not going to, you know, I -- I may make note of it</p> <p>22 in my report that due to the fact of the witness's</p> <p>23 credibility, you know, this is why the -- the</p> <p>24 suspect was released. And -- and that's the end of</p> <p>25 the story. I mean, it could be as short as a -- a</p>	<p style="text-align: right;">Page 129</p> <p>1 hypotheticals, but that's all it would be is</p> <p>2 hypothetical.</p> <p>3 Q. Sorry, let me just make sure I'm done with</p> <p>4 this section. Okay. So in that same -- oh, strike</p> <p>5 that, please. In that same paragraph, you state, quote,</p> <p>6 "Detectives use proper police procedures by interviewing</p> <p>7 witnesses to continue their investigation and obtain</p> <p>8 more evidence or leads." Do you see that, sir?</p> <p>9 A. I am looking for it right now. Yes, I found</p> <p>10 it.</p> <p>11 Q. Okay. Perfect. And first, what is the</p> <p>12 factual basis for that opinion?</p> <p>13 A. Well, that's through my experience and my</p> <p>14 training. They went ahead, they -- they took the</p> <p>15 information that they received via the broadcast. They</p> <p>16 took in a suspect. They went ahead and did lineups. In</p> <p>17 fact, they did two sets of lineups. They decided for</p> <p>18 whatever reason to let Bryan Johns go and they went on</p> <p>19 with the investigation and they let the investigation</p> <p>20 lead them to where it needed to lead them, where the</p> <p>21 evidence led them.</p> <p>22 Q. Okay. And that statement also refers to the</p> <p>23 interviews of Elba Burgos, Rosa Burgos, and Ricardo</p> <p>24 Burgos, correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q. Okay. Can you please state the factual basis</p> <p>2 for the opinion that the detectives used proper police</p> <p>3 procedures by interviewing those individuals to continue</p> <p>4 their investigation?</p> <p>5 A. Well --</p> <p>6 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>7 THE WITNESS: Well, that one's actually simple.</p> <p>8 You -- you have -- you have Rosa Burgos, who</p> <p>9 participated in a lineup, who knew Bryan Johns. She</p> <p>10 admitted in her statement and also in testimony that</p> <p>11 her son and Bryan Johns had some sort of problem</p> <p>12 with each other. Rosa Burgos knew Bryan Johns. If</p> <p>13 Bryan Johns was the shooter, I think Rosa Burgos</p> <p>14 would've known that. So again, with the proper</p> <p>15 police procedure, detectives hear this. Me as a</p> <p>16 detective, I don't think I would go after that</p> <p>17 individual with the statement from Rosa Burgos, but</p> <p>18 she knows Bryan Johns because they had a problem or</p> <p>19 he had a problem with the son. So right away, that</p> <p>20 would discard Bryan Johns in my head.</p> <p>21 BY MS. MARTINEZ:</p> <p>22 Q. And as it relates to Plaintiff, Mr. Johnson,</p> <p>23 what is the factual basis for your opinion that the</p> <p>24 detectives used proper police procedures when</p> <p>25 interviewing Elba, Rosa, and Ricardo?</p>	<p style="text-align: right;">Page 132</p> <p>1 the guy, and she would've did it for a revenge factor.</p> <p>2 But she didn't do it. She knew right away it wasn't</p> <p>3 Bryan Johns.</p> <p>4 And again, the detectives, they used good</p> <p>5 police procedure by not following that. I mean, can you</p> <p>6 imagine if they would've -- if they would've tried to</p> <p>7 pin this on Bryan Johns with Rosa Burgos' statement? I</p> <p>8 would call that tunnel vision. Mr. Tiderington would be</p> <p>9 100 percent right, that would be tunnel vision because</p> <p>10 they just focused on Bryan Johns. But I disagree with</p> <p>11 Mr. Tiderington. They did not have tunnel vision. They</p> <p>12 -- they went outside just one suspect. And I'm sure</p> <p>13 they still had Bryan Johns maybe in their crosshair for</p> <p>14 whatever reason, or they dismissed it. Again, we don't</p> <p>15 know. We know there's missing file. We know there's</p> <p>16 missing paperwork.</p> <p>17 Q. And as a quick clarification, are you assuming</p> <p>18 that the incident that Rosa talks about between her son</p> <p>19 and Mr. Johns was negative?</p> <p>20 A. When you say "negative," I don't know what you</p> <p>21 mean by that.</p> <p>22 Q. That it was some kind of negative interaction</p> <p>23 between her son and Mr. Johns. That it --</p> <p>24 A. That's what --</p> <p>25 Q. -- it wasn't. Yep, sorry. Apologies, sir.</p>
<p style="text-align: right;">Page 131</p> <p>1 A. Sure. A photo was shown. Elba, who didn't</p> <p>2 know the individual, she pointed to Darrall Johnson and</p> <p>3 basically said that the suspect looked like Darrall. And</p> <p>4 again, that's why I think the police did good work. They</p> <p>5 -- you know, they knew that he had a younger brother.</p> <p>6 They went ahead, contacted Daley again, who was a tech</p> <p>7 officer in 14 for nine years, who admits in his</p> <p>8 testimony that he knows all the players in the 14th</p> <p>9 District. They all get along with him in the 14th</p> <p>10 District. They all talk to him in the 14th District. No</p> <p>11 one ever had a problem with him. So I -- I mean, I</p> <p>12 think that just speaks -- that just speaks on its own.</p> <p>13 Q. And then -- excuse me. And then for Rosa and</p> <p>14 for Ricardo?</p> <p>15 A. Well again, Rosa -- Rosa, again, making that</p> <p>16 statement that she knew Bryan Johns. And again, Rosa -</p> <p>17 - here, if you -- if you think about it, if Rosa really</p> <p>18 wanted to pin this crime on Bryan Johns because of what</p> <p>19 happened with her son -- and again, there's no</p> <p>20 documentation of what happened between Bryan Johns and</p> <p>21 her son. We don't know. Again, with my experience, I</p> <p>22 would think it was some sort of gang-related incident.</p> <p>23 But again, that's just -- that's just the hypothetical</p> <p>24 on my end. And if Bryan -- if -- if Rosa really wanted</p> <p>25 to pin this on Bryan Johns, she could've said, that's</p>	<p style="text-align: right;">Page 133</p> <p>1 A. I apologize. That's what I believe. Yes. I</p> <p>2 took that -- I took that as -- incident as some sort of</p> <p>3 negative issue that they had between the two.</p> <p>4 Q. Okay. And then in -- apologies, I combined</p> <p>5 words. In regards to Mr. Ricardo Burgos, what is the</p> <p>6 factual basis for your opinion that the detectives used</p> <p>7 proper investigative procedures in interviewing him?</p> <p>8 A. Well, again, they -- he -- I think he gave a</p> <p>9 decent statement. He does say that he did view it for</p> <p>10 45 seconds. He -- you know, he also looked at a photo.</p> <p>11 You know, again, I know there's the -- I know there's</p> <p>12 the talk of the Spanish, but again -- you know, again,</p> <p>13 we're talking 1991 and -- and I do make mention that</p> <p>14 even with the police reports, the state's attorney</p> <p>15 paperwork and the public defender's paperwork, there's -</p> <p>16 - there's -- there's errors. There's misspellings.</p> <p>17 There's -- you know, so again, 1991 paperwork was a</p> <p>18 little bit different. So -- but I believe that the</p> <p>19 detectives did do a good job with Ricardo -- Ricardo</p> <p>20 here. Ricardo, Rosa, and Elba basically never came off</p> <p>21 their statement. The statements that they give -- that</p> <p>22 they gave, the IDs that they did, that they -- that they</p> <p>23 picked out Demetrius. They never came off their</p> <p>24 statements. They never said that they were coerced,</p> <p>25 told who to pick out. There's no documentation</p>



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1 whatsoever of that.

2 Now I know 30 years later, there's some issues  
3 where everybody's having memory problems. But again, you  
4 know, you're talking dementia, you're talking whatever  
5 their diagnosis is. It is what it is. Again, we're  
6 going off the statements, we're going off their  
7 testimony, and they never veered off that testimony.

8 **Q. Okay. And as a quick follow-up question to**  
9 **something you said in your answer, if Ricardo testified**  
10 **that he never saw the face of the perpetrator of the**  
11 **shooting, would that -- should that have affected the**  
12 **investigating officer's reliance on his eyewitness**  
13 **identification?**

14 MR. BRUEGGEN: Object to form. Misstates the  
15 record in complete hypothetical. Go ahead, sir.

16 THE WITNESS: Again, that would -- I would say  
17 yes, but again, we don't know. We're going  
18 according to his testimony in court. But again, to  
19 answer your question, yes.

20 BY MS. MARTINEZ:

21 **Q. Okay. Thank you, sir. Okay. I'm going to**  
22 **pull back up a part of Exhibit 5, Mr. Tiderington's**  
23 **report on Page 30. And let -- please let me know if it**  
24 **would be easier for me to share my screen.**

25 MR. BRUEGGEN: Yeah. If you would, just to

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1 make sure we're on the same page.

2 MS. MARTINEZ: Okay.

3 MR. BRUEGGEN: That way we can --

4 MS. MARTINEZ: Okay, perfect.

5 THE WITNESS: Okay, I am on Page 30.

6 MR. BRUEGGEN: Screen right here --

7 THE WITNESS: Okay.

8 BY MS. MARTINEZ:

9 **Q. Okay. And so this -- I want to -- I would**  
10 **like to draw your attention to the statement of**  
11 **Mr. Tiderington that, quote, "At least 14 witnesses were**  
12 **identified in the various police reports relating to**  
13 **this case. Yet there is no contemporaneous notes or**  
14 **detailed documentation of any statements provided."**  
15 **Okay. Stop sharing. Would you agree that that is a**  
16 **problem in this case?**

17 A. I'm not going to say it's a problem, but  
18 again, we -- I think we both agree that there are --  
19 there is missing documentation in the file. You know, I  
20 believe in Detective Guevara's testimony that he said  
21 there was GPR notes, that he did take GPR notes. We  
22 don't know where those notes are at. So with  
23 Mr. Tiderington's 14 witnesses were identified, I would  
24 love for you to let me know in what part of the report  
25 those 14 witnesses are because I think I only count

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1 about -- off the top of my head, maybe 10. I would love  
2 to know who the 14 witnesses are.

3 **Q. I don't unfortunately have a list in front of**  
4 **me, but I'm sure Mr. Tiderington has what --**

5 A. But again, you asked me that -- so just again,  
6 I said you asked me that question about 14 witnesses. I  
7 want to know what 14 witnesses we're talking about. So  
8 you know what I'm saying? Because again, I don't know  
9 about any 14 witnesses. But I can go through all the  
10 witnesses right now where we can mark them. But again,  
11 he's -- I think he's speaking out of -- I think he's  
12 speaking out of turn here. And again, just because I  
13 didn't -- just because I didn't document -- I only  
14 documented a few of Mr. Tiderington's -- you know, that  
15 I disagreed with. You know, I reflect that my -- my  
16 report -- I disagree with Mr. Tiderington. Again, I  
17 disagree with the 14 witnesses.

18 **Q. Okay. So just to be clear, to make sure I'm**  
19 **understanding your testimony, you disagree with**  
20 **Mr. Tiderington's assertion that there were 14 witnesses**  
21 **interviewed in this case?**

22 A. Well, it says, "At least 14 witnesses were  
23 identified."

24 **Q. But would that be a correct statement, that**  
25 **you disagree with the number 14 as it pertains to**

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1 **witnesses that were identified in this investigation?**

2 A. I can say that I -- reviewing my report, I  
3 don't recall seeing 14 different witnesses.

4 **Q. Okay. In your experience in a homicide**  
5 **investigation where five witnesses are interviewed,**  
6 **would you expect there to be documentation reflecting**  
7 **those interviews?**

8 A. Yes.

9 **Q. And so would it then also be the case where if**  
10 **there were 14 witnesses that were identified and spoken**  
11 **to, you would expect some kind of documentation**  
12 **reflecting those interviews?**

13 MR. BRUEGGEN: Object to form. Incomplete  
14 hypothetical. Go ahead, sir.

15 THE WITNESS: I would expect to see 14 reports.  
16 But again, we're -- we agree that we're missing, you  
17 know, the missing documentation. Are these -- are  
18 we missing witness reports? I don't know. I can't  
19 answer that. I'm only going off the CPD reports  
20 that I'm reading.

21 BY MS. MARTINEZ:

22 **Q. So in your experience, particularly when you**  
23 **were a supervisor, if you were supervising a homicide**  
24 **investigation and there were no contemporaneous notes of**  
25 **interviews with witnesses, would you have questions for**

<p style="text-align: right;">Page 138</p> <p>1 <b>those officers?</b></p> <p>2 A. I would not question my officers.</p> <p>3 <b>Q. No? Why not?</b></p> <p>4 A. Because I know -- I knew my detectives and I</p> <p>5 knew that my detectives, they could do interviews</p> <p>6 without taking any notes.</p> <p>7 <b>Q. Okay. And --</b></p> <p>8 A. I guess you have to know your -- I guess you</p> <p>9 have to know your -- you have to know your detectives.</p> <p>10 <b>Q. But in your experience, would it be best</b></p> <p>11 <b>practice to take contemporaneous notes when interviewing</b></p> <p>12 <b>a witness?</b></p> <p>13 A. Again --</p> <p>14 MR. BRUEGGEN: Object to form. Incomplete</p> <p>15 hypothetical. Go ahead, sir.</p> <p>16 THE WITNESS: Again, depends on the</p> <p>17 investigation. Like I -- like I said a few hours</p> <p>18 ago, there's not one investigation in my 18-year</p> <p>19 career as a detective supervisor that has ever been</p> <p>20 the same. I can't tell you that if there's a</p> <p>21 homicide, you -- you should have 300 pages of notes.</p> <p>22 I -- I can't say that because every investigation is</p> <p>23 the same and no, I would not question my -- my</p> <p>24 detectives.</p> <p>25 BY MS. MARTINEZ:</p>	<p style="text-align: right;">Page 140</p> <p>1 follow-ups, they have to do interviews, I wouldn't</p> <p>2 expect them to come back after each interview and</p> <p>3 type up a report. It's just -- it's -- it's -- it</p> <p>4 -- in a -- in a perfect world, yes. But when we</p> <p>5 have investigations, it's not a perfect world. I go</p> <p>6 back to no investigation's the same. Or there are</p> <p>7 times that the investigators did come back and type</p> <p>8 up the report. I'm sure there was. Was there times</p> <p>9 when I had to send the investigators home due to</p> <p>10 budget crunches? For sure. You got to do your</p> <p>11 report another day. And then another lead comes up</p> <p>12 the next day or another lead comes up the following</p> <p>13 day. So again, I can't answer that question. In a</p> <p>14 perfect world, I'd love for detectives to be typing</p> <p>15 the report as they're talking to the person, but</p> <p>16 it's never going to happen. So again, I know I've</p> <p>17 said it several times, but no investigation is the</p> <p>18 same.</p> <p>19 BY MS. MARTINEZ:</p> <p>20 <b>Q. In your experience, would you be concerned</b></p> <p>21 <b>about the reliability of an officer's report if it were</b></p> <p>22 <b>written one day after speaking with the witness?</b></p> <p>23 MR. BRUEGGEN: Objection. It's an incomplete</p> <p>24 hypothetical.</p> <p>25 THE WITNESS: I'm going to have to have you</p>
<p style="text-align: right;">Page 139</p> <p>1 <b>Q. Okay. And just to make sure I'm not</b></p> <p>2 <b>misunderstanding your testimony. You -- in your</b></p> <p>3 <b>experience, you would not question the officers for not</b></p> <p>4 <b>taking contemporaneous notes. But would you still</b></p> <p>5 <b>expect to see some kind of report about their interview</b></p> <p>6 <b>with a witness?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. Okay. And in your experience, would it be</b></p> <p>9 <b>preferable or better policing practice to have</b></p> <p>10 <b>documented that interaction sooner rather than later?</b></p> <p>11 MR. BRUEGGEN: Object to form.</p> <p>12 BY MS. MARTINEZ:</p> <p>13 <b>Q. I can rephrase. In your opinion -- or --</b></p> <p>14 <b>pause. Strike that, please. In your experience, would</b></p> <p>15 <b>you expect your -- the officers under your supervision</b></p> <p>16 <b>to document their interview with a witness at the end of</b></p> <p>17 <b>their tour of duty the day they spoke to them?</b></p> <p>18 MR. BRUEGGEN: Object to form. Incomplete</p> <p>19 hypothetical. Go ahead.</p> <p>20 THE WITNESS: Again, it just depends on the</p> <p>21 investigation. In a -- in a perfect world,</p> <p>22 absolutely. But if you're working a homicide case</p> <p>23 and I have -- you know, I have six detectives, but I</p> <p>24 have two out on injury, I got one on vacation, and I</p> <p>25 only have three detectives and they have to go do</p>	<p style="text-align: right;">Page 141</p> <p>1 rephrase that, please.</p> <p>2 BY MS. MARTINEZ:</p> <p>3 <b>Q. Okay. So in your experience -- you testified</b></p> <p>4 <b>previously that it would be all right if your officers</b></p> <p>5 <b>did not take contemporaneous notes and just wrote a</b></p> <p>6 <b>report reflecting their interview with a witness; is</b></p> <p>7 <b>that correct?</b></p> <p>8 A. Correct.</p> <p>9 <b>Q. And so in your experience, would you have any</b></p> <p>10 <b>concerns about the reliability of that report? Like if</b></p> <p>11 <b>the officer remembered everything from that interaction,</b></p> <p>12 <b>if they wrote the report the day after they spoke with</b></p> <p>13 <b>the witness?</b></p> <p>14 A. I would have no problem.</p> <p>15 MR. BRUEGGEN: Go ahead. Answer.</p> <p>16 THE WITNESS: I would have no problem with that</p> <p>17 whatsoever.</p> <p>18 BY MS. MARTINEZ:</p> <p>19 <b>Q. Okay. What about a week after?</b></p> <p>20 A. Again, I would have no problem with that. As</p> <p>21 long as I knew that the detective was putting down</p> <p>22 whatever that detective heard in that interview, I would</p> <p>23 have no problem with that. I would never sit there and</p> <p>24 second guess my detective. Again, I go back to</p> <p>25 Mr. Tiderington's opinion and I did not put that in my</p>

<p style="text-align: right;">Page 142</p> <p>1 opinion because, again, I let my whole report speak for</p> <p>2 itself. But Mr. Tiderington did say, in his 40 year</p> <p>3 career that he was involved in every aspect, every dot</p> <p>4 of an I, everything that his detectives did. It's</p> <p>5 impossible. Could never do that.</p> <p>6 <b>Q. Okay. I have two follow-up questions. The</b></p> <p>7 <b>first is, would you be concerned about the reliability</b></p> <p>8 <b>of the report if the detective wrote it a month later?</b></p> <p>9 MS. CARNEY: Objection. Form. Incomplete</p> <p>10 hypothetical.</p> <p>11 BY MS. MARTINEZ:</p> <p>12 <b>Q. You can answer, sir.</b></p> <p>13 A. So again, you're -- I -- I -- you're going a</p> <p>14 day, a week, a month. Again, you're talking about my</p> <p>15 experiences. You're talking about the detectives that I</p> <p>16 basically interviewed, brought up to the detective</p> <p>17 division under my command. I knew their strengths in</p> <p>18 writing reports. I would have no problem with it</p> <p>19 whatsoever. And if I did have a problem with it, the</p> <p>20 detective would not be under my command anymore. They</p> <p>21 would be reassigned to a different aspect of the job. So</p> <p>22 to answer your question, you can say a month, six</p> <p>23 months, I would say that I trust my detectives and my</p> <p>24 detectives always did a good job. And again, I'm not a</p> <p>25 memory expert, but I do know officers, I do know</p>	<p style="text-align: right;">Page 144</p> <p>1 hypothetical situation that you just gave me, yes, I</p> <p>2 would've a conversation with that detective to find</p> <p>3 out, and I would hope it wouldn't even have come to</p> <p>4 that far because I would've, you know, found out</p> <p>5 earlier, you know. And we're not even talking a</p> <p>6 homicide, just in any day-to-day activity, so. But</p> <p>7 again, I -- in your hypothetical situation, I</p> <p>8 would've a talk with the detective for sure.</p> <p>9 THE REPORTER: Ms. Carney, I just want to make</p> <p>10 sure, did you object?</p> <p>11 MS. CARNEY: I did. I said it was a compound</p> <p>12 question.</p> <p>13 THE REPORTER: Okay. Thank you.</p> <p>14 MS. CARNEY: Thank you.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 <b>Q. And just to -- again, to make sure I'm</b></p> <p>17 <b>understanding, you're -- in that hypothetical, you're</b></p> <p>18 <b>saying that ideally you would've seen that this was</b></p> <p>19 <b>happening sooner and spoken with that officer sooner; is</b></p> <p>20 <b>that a fair statement?</b></p> <p>21 A. Hypothetically, if I would've caught onto it,</p> <p>22 I would've talked to the officer.</p> <p>23 <b>Q. Okay. Thank you for that, sir.</b></p> <p>24 A. You're welcome.</p> <p>25 <b>Q. Okay. So I'm going to go back to</b></p>
<p style="text-align: right;">Page 143</p> <p>1 detectives that it's incredible the things that they can</p> <p>2 remember. They remember better than I've ever seen</p> <p>3 before. So to answer your question, I would not have a</p> <p>4 problem with it whatsoever.</p> <p>5 <b>Q. Okay. And just to clarify to make sure I'm</b></p> <p>6 <b>understanding your testimony correctly, for the officers</b></p> <p>7 <b>that were under your purview, there is no set time limit</b></p> <p>8 <b>by which you would start to question the reliability of</b></p> <p>9 <b>their report as it pertains to a witness they</b></p> <p>10 <b>interviewed?</b></p> <p>11 A. Correct.</p> <p>12 MR. BRUEGGEN: Object to form.</p> <p>13 THE WITNESS: Apologize. Correct.</p> <p>14 BY MS. MARTINEZ:</p> <p>15 <b>Q. Okay. And then my follow-up is a</b></p> <p>16 <b>hypothetical. If you, while you were serving in your</b></p> <p>17 <b>supervisory capacity, had an officer under your purview</b></p> <p>18 <b>that was consistently not writing reports on interviews</b></p> <p>19 <b>with witnesses or was writing those reports very late.</b></p> <p>20 <b>And by very late, we'll say two months later, would you</b></p> <p>21 <b>question that officer?</b></p> <p>22 MR. BRUEGGEN: Objection. Form. Incomplete</p> <p>23 hypothetical. Go ahead, sir.</p> <p>24 MS. CARNEY: Compound.</p> <p>25 THE WITNESS: In your hypothetical -- in your</p>	<p style="text-align: right;">Page 145</p> <p>1 <b>Mr. Tiderington's report on Page 28. And let me know</b></p> <p>2 <b>when you're there.</b></p> <p>3 A. I am on Page 28.</p> <p>4 <b>Q. Okay. So on Page 28, Mr. Tiderington states,</b></p> <p>5 <b>quote, "Oral communication of information during a</b></p> <p>6 <b>homicide investigation is insufficient" --</b></p> <p>7 MR. BRUEGGEN: Alyssa?</p> <p>8 MS. MARTINEZ: Oh, apologize.</p> <p>9 MR. BRUEGGEN: Can you direct us where at page</p> <p>10 28, just so we can read along with you?</p> <p>11 MS. MARTINEZ: Yes. It's the first full</p> <p>12 paragraph under subheading 4.</p> <p>13 MR. BRUEGGEN: I got it. Starting, "Oral</p> <p>14 communication," correct?</p> <p>15 MS. MARTINEZ: Yes. That second sentence.</p> <p>16 Okay.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 <b>Q. So he says, quote, "Oral communication of</b></p> <p>19 <b>information during a homicide investigation is</b></p> <p>20 <b>insufficient. A written record is necessary to</b></p> <p>21 <b>communicate relevant information among investigating</b></p> <p>22 <b>personnel in order to identify suspects and develop</b></p> <p>23 <b>evidence leading to the apprehension of the true</b></p> <p>24 <b>perpetrators of the crime. A homicide file should --</b></p> <p>25 <b>excuse me, should allow the reader, including fellow</b></p>

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1 detectives, supervisors, and eventually prosecutors and  
2 criminal defendants to see the investigative steps that  
3 were taken and all potentially relevant information must  
4 be reported because the investigator will not know at  
5 the time information is received that it is or is not  
6 important to the ultimate case. Contemporaneous  
7 documentation is critical to ensure that information is  
8 accurately recorded and communicated. For this reason,  
9 police officers and detectives and other investigators  
10 in particular are trained that to take contemporaneous  
11 notes in order to assist them in preparing accurate and  
12 complete reports.

13 Homicide investigations are often fast moving  
14 and ever changing, involve interviews of numerous  
15 witnesses and can depend on new details to develop  
16 critical leads. Relying on memory alone to prepare  
17 reports weeks, days, or even hours later creates the  
18 risk of losing critical information and failing to  
19 accurately document investigative information as  
20 detectives are routinely trained." Apologies. That's  
21 quite the long section to quote. But the CV you supplied  
22 in your report details multiple trainings you've  
23 attended that address report writing; is that correct?

24 A. Correct.

25 Q. And in particular, I was looking at the

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1 January 2005 training at Northwestern and the April 2005  
2 training; is that correct?

3 A. Correct.

4 Q. Okay. So with that training and in your  
5 experience, would you agree with Mr. Tiderington that,  
6 quote, "oral communication of information during a  
7 homicide investigation is insufficient"?

8 MR. BRUEGGEN: Objection. Incomplete  
9 hypothetical. Go ahead, sir.

10 THE WITNESS: I'm just going to read that line  
11 again.

12 BY MS. MARTINEZ:

13 Q. Oh, please.

14 A. I -- I'm going to be honest with you. I don't  
15 understand what he means by that line.

16 Q. Okay. So let's -- assuming he's saying that  
17 the officers in a homicide investigation are not taking  
18 any form of notes and they are purely investigating  
19 based on oral communication between each other, would  
20 you agree with that statement?

21 MR. BRUEGGEN: Object to form.

22 THE WITNESS: But again, this is -- and I'll  
23 answer your question, but this is Mr. Tiderington's  
24 opinion.

25 BY MS. MARTINEZ:

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1 Q. Yeah. I'm just asking if you agree.

2 A. Okay.

3 Q. I apologize. I didn't mean to cut you off,  
4 sir.

5 A. You know, and again, oral communication  
6 between detectives, it's -- it's -- it's good. I'm not  
7 going to disagree with that. I mean, I don't know if  
8 you're asking me in this -- in this sentence that -- are  
9 -- are you asking me that -- if there's no communication  
10 whatsoever, is that bad?

11 Q. I'm asking if --

12 A. Because I'm not understanding --

13 Q. -- the only form of communication is oral  
14 communication.

15 A. There's different -- there's -- oral is not  
16 the only information. I mean, you do have reports. You  
17 do have oral. I mean, there's -- there's several.

18 Q. Okay. So would it be fair to say that you  
19 disagree with that statement on the grounds you just  
20 said?

21 A. Again, I'm just having a hard time figuring  
22 out what context he's referring to. So I don't want to  
23 answer it one way when I'm not understanding the -- the  
24 way he's putting it in context, because he's putting --

25 Q. In answering -- oh, apologies, sir.

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1 A. He's putting a -- he's putting a lot in this --  
2 -- in this one paragraph.

3 Q. In answering the question to this specific  
4 sentence, please also feel free to explain what your  
5 basis is for responding if you agree or disagree and  
6 what your understanding of the sentence is.

7 MS. CARNEY: Objection. Form. What sentence  
8 are you referring to?

9 MS. MARTINEZ: The first sentence of the quote  
10 that's found in the first paragraph on Page 28 under  
11 Subsection 4, that oral communication of information  
12 during a homicide investigation is insufficient.

13 THE WITNESS: So the way that I'm gathering  
14 this -- this statement, basically, if there's no  
15 oral communication, that could be bad. I agree with  
16 that.

17 BY MS. MARTINEZ:

18 Q. Okay.

19 A. I -- I also -- I -- I mean, I disagree with  
20 sections in -- in this -- you know, again, this is  
21 Mr. Tiderington, who basically says that he has overseen  
22 in 40 years every interview, every witness statement,  
23 everything. I disagree with that. It's impossible.  
24 He's -- he's -- what I'm gathering here is he's talking  
25 in a -- in a perfect world and -- and -- and really,

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1 Mr. Tiderington, the way he describes a homicide  
2 investigation, he's in a perfect world in his head, and  
3 that's not the way it happens in my experience. You  
4 don't know how it's going to happen. I could talk -- I  
5 could talk to Dave next to me who's a witness and out of  
6 that interview, Dave can tell me about three other  
7 people I need to talk to. And then yes, I could  
8 communicate with detectives, which I believe is  
9 sufficient or I can follow the lead and move on. So I  
10 don't know if we're -- if we're communicating the same.  
11 I just feel like this whole -- if we're going to break  
12 down this whole section, I think we need to break it  
13 down line for line because he talks about -- again, this  
14 is not a perfect world. An investigation, like I said  
15 before, they're never the same. And again, I didn't put  
16 it in my report, but Mr. Tiderington believes that all  
17 investigations are the same, A, B, C, D, E. It doesn't  
18 happen that way.

19 Q. Okay. I do plan on breaking it down line by  
20 line, so you'll have an opportunity --

21 A. Okay.

22 Q. -- to speak to each one. But so in your  
23 experience and with your training, do you agree that,  
24 quote, "A written record is necessary to communicate  
25 relevant information among investigating personnel in

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1 order to identify suspects and develop evidence leading  
2 to the apprehension of the true perpetrators of the  
3 crime"? That's the second sentence that he has in that  
4 quote.

5 A. Yep. Yes. And I believe that a written  
6 record should be formulated somewhere during the  
7 investigation. I don't think that the written record  
8 has to be done immediately, but when you have the final  
9 record and you're going to be turning over the record to  
10 felony review, that's when you have your final record.  
11 But again, it doesn't have to be done that day, next  
12 day, a week. It just depends on the investigation.

13 Q. Okay. And why is that important? Why is  
14 creating that written record and turning it over  
15 important?

16 A. Well, because at the end of the day, when  
17 you're going to present your case to felony review, you  
18 do want felony review to have the facts of the case. And  
19 then if they're going to approve charges or they're not  
20 going to approve charges, that's on them. They decide  
21 to bring it to court, then now it's in the Court system.  
22 Now it's in front of a judge and jury. And again, I  
23 just want to say that I understand what  
24 Mr. Tiderington's saying, but I also understand that  
25 there are missing files from this case that we both

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1 agreed upon earlier. So again, it would be that perfect  
2 world if we had all this documentation, if a witness was  
3 interviewed, say at 9:00 in the morning, a report was  
4 done at 9:15 a.m. If an -- a witness was interviewed at  
5 9:30, a report would be done at 9:45. Again, we're  
6 talking about the perfect world, perfect circumstances.  
7 Again, investigations are all different. You never know  
8 where it's going to lead you. When you find evidence,  
9 you talk to people, you don't know where it's going to  
10 lead you.

11 Q. I'm going to move on to the next sentence. In  
12 your experience and with your training, do you agree  
13 that, quote, "A homicide file should allow the reader,  
14 (including fellow detectives, supervisors and eventually  
15 prosecutors and criminal defendants) to see the  
16 investigative steps that were taken and all potentially  
17 relevant information must be reported because the  
18 investigator will not know at the time information is  
19 received, that it is or is not important to the ultimate  
20 case"?

21 A. Again, it's up to the detective. What that  
22 detective wants -- feels relevant to put in that case or  
23 put in that case file, it -- it's -- it's up to the  
24 detective. I mean, relevant information should go in  
25 there but again, if I am on an investigation and I come

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1 up to you and I say, excuse me, do you know where  
2 Ms. Doe lives? And you point me down the street, is  
3 that relevant information that needs to go to the  
4 report? Again, there's still discretion in the  
5 detective's job. In my 18 years, there's always been  
6 discretion. If I feel like it shouldn't go in a report,  
7 it's not going to go in a report. If I feel like it's  
8 going to go in a report, it should go in a report. I  
9 don't think Mr. Tiderington is -- should say it should  
10 all go in a report. If that was his views, if that was  
11 his way that he handles his investigations, so be it.

12 Q. And just for clarification, when you say it's  
13 up to the investigator's discretion, discretion as to  
14 what?

15 A. To knowing what facts -- what needs to go into  
16 a report.

17 Q. And in determining what those facts should be,  
18 what's the benchmark? And I guess I mean by that, for  
19 example, is it things that a detective would think would  
20 lead to a criminal prosecution?

21 MR. BRUEGGEN: Object to form.

22 THE WITNESS: It could.

23 BY MS. MARTINEZ:

24 Q. Could it be things that -- things that an  
25 investigator thinks might exclude a subject?



<p style="text-align: right;">Page 154</p> <p>1 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>2 THE WITNESS: If that detective feels like it</p> <p>3 should be in there, sure.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Could it be things that an investigator thinks</p> <p>6 introduces a new lead as to who the perpetrator of a</p> <p>7 crime is?</p> <p>8 A. If they feel like it should be in there, sure.</p> <p>9 Q. Okay. So it's -- my understanding from what</p> <p>10 you're saying is that it's the -- it's at the discretion</p> <p>11 of the individual detective to determine what should go</p> <p>12 in the investigative file; is that correct; is that</p> <p>13 fair?</p> <p>14 A. Yes.</p> <p>15 MR. BRUEGGEN: Form.</p> <p>16 THE WITNESS: Yes. With their training, with</p> <p>17 their experience, best police practice, absolutely.</p> <p>18 They should -- they -- they should have the</p> <p>19 discretion. And my detectives, through my career,</p> <p>20 they've always had the discretion to put -- they</p> <p>21 felt like this needed to be in there, it goes in</p> <p>22 there. Again, I go back to the -- if I asked you</p> <p>23 about, you know, where does Ms. Doe live? Do I</p> <p>24 think that -- that should be a supplemental report?</p> <p>25 If it has anything to do with the case, sure, it</p>	<p style="text-align: right;">Page 156</p> <p>1 Sure, but I don't know if it's actually critical, if</p> <p>2 that's going to hinder a case, what he's saying.</p> <p>3 Again, we're going -- we're going base by base</p> <p>4 investigation. You know, I would like to know --</p> <p>5 again, he's just -- he's kind of going perfect</p> <p>6 scenario here.</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. Would you agree that contemporaneous</p> <p>9 documentation could help to ensure that information is</p> <p>10 accurately recorded and communicated?</p> <p>11 A. Yes.</p> <p>12 MR. BRUEGGEN: Object to form.</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Okay. And I'm going to --</p> <p>15 THE REPORTER: I didn't catch -- sorry. I</p> <p>16 didn't catch your answer. It kind of overlapped.</p> <p>17 MR. BRUEGGEN: I object to the form. What'd</p> <p>18 you answer, sir?</p> <p>19 THE WITNESS: I answered yes.</p> <p>20 THE REPORTER: Okay. Thank you.</p> <p>21 THE WITNESS: You're welcome.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. And then -- okay, I'm going to move on to the</p> <p>24 next sentence. In your experience and with your</p> <p>25 training, sir, do you agree that, quote, "For this</p>
<p style="text-align: right;">Page 155</p> <p>1 should be in the report. I would never question a</p> <p>2 detective if they put more information in the case,</p> <p>3 but I'm also not going to question, again, with my</p> <p>4 experience, a detective that they didn't put</p> <p>5 something that they didn't feel relevant to go in</p> <p>6 the case. They're trained. They're experienced. I</p> <p>7 wouldn't send anybody out on a -- on a -- a homicide</p> <p>8 investigation if I didn't feel that they had the</p> <p>9 training, they had the experience.</p> <p>10 BY MS. MARTINEZ:</p> <p>11 Q. Okay. And a quick follow-up question to that.</p> <p>12 In your capacity as a supervisor, did you ever have an</p> <p>13 officer under your purview that did not include what you</p> <p>14 would determine to be relevant information for an</p> <p>15 investigation?</p> <p>16 A. Not to my knowledge, no.</p> <p>17 Q. So I'm going to move on to the next sentence</p> <p>18 in Mr. Tiderington's opinion. So in your experience and</p> <p>19 with your training, do you agree that, quote,</p> <p>20 "Contemporaneous documentation is critical to ensure</p> <p>21 that information is accurately recorded and</p> <p>22 communicated"?</p> <p>23 MR. BRUEGGEN: Object to the form.</p> <p>24 THE WITNESS: I mean, I don't know if I agree</p> <p>25 that it's critical. Could it be in the report?</p>	<p style="text-align: right;">Page 157</p> <p>1 reason, police officers and detectives and other</p> <p>2 investigators in particular are trained that to take</p> <p>3 contemporaneous notes in order to assist them in</p> <p>4 preparing accurate and complete reports"?</p> <p>5 MR. BRUEGGEN: Object to form.</p> <p>6 THE WITNESS: Again, I dealt with detectives</p> <p>7 that do not take notes and they could write an</p> <p>8 excellent report and get all the facts in the report</p> <p>9 and just because they don't have no notes, I don't</p> <p>10 see a problem with that.</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. In your experience, both training to become a</p> <p>13 police officer and as a supervising officer, is it part</p> <p>14 of police training to take contemporaneous notes and why</p> <p>15 that's important?</p> <p>16 MR. BRUEGGEN: Object to form.</p> <p>17 THE WITNESS: So again, going back to my police</p> <p>18 academy back in 1995, it was a 10-week course. I'm</p> <p>19 sure we had a section on report writing. I'm not</p> <p>20 sure how in-depth we got into report writing, but</p> <p>21 I'm sure, you know, without going through all of my</p> <p>22 notes from 1995 how much we actually did report</p> <p>23 writing, or I'm saying, were trained in report</p> <p>24 writing.</p> <p>25 BY MS. MARTINEZ:</p>

<p style="text-align: right;">Page 158</p> <p>1 Q. I'm going to move on to the next sentence. In</p> <p>2 your experience and with your training, do you agree</p> <p>3 that, quote, "Homicide investigations are often fast</p> <p>4 moving and ever changing, involve interviews of numerous</p> <p>5 witnesses and can depend on minute details to develop</p> <p>6 critical leads"?</p> <p>7 A. I agree with that.</p> <p>8 Q. Okay. And then the last sentence. In your</p> <p>9 experience and with your training, do you agree that,</p> <p>10 quote, "Relying on memory alone to prepare reports</p> <p>11 weeks, days, or even hours later creates the risk of</p> <p>12 losing critical information and failing to accurately</p> <p>13 document investigative information as detectives are</p> <p>14 routinely trained?"</p> <p>15 MR. BRUEGGEN: Object to form. Go ahead, sir.</p> <p>16 THE WITNESS: Again, depends on the interview,</p> <p>17 depends on the investigation. I mean, it could be a</p> <p>18 simple interview to where the detective can do the</p> <p>19 report. So again, you know, it'd be a hypothetical</p> <p>20 situation if I kept throwing, you know, scenarios at</p> <p>21 you.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. This sentence in particular, just to make sure</p> <p>24 I'm getting your full and accurate testimony, I'm going</p> <p>25 to break down. So the first piece about, quote,</p>	<p style="text-align: right;">Page 160</p> <p>1 would disagree that it's a failure to prepare it weeks</p> <p>2 later?</p> <p>3 A. I never said it would be a failure to prepare</p> <p>4 weeks.</p> <p>5 Q. It's in the sentence. So if you're</p> <p>6 disagreeing with that part of the quote, would you</p> <p>7 disagree for days and hours, but maybe agree if it were</p> <p>8 weeks later?</p> <p>9 MR. BRUEGGEN: Object to form.</p> <p>10 THE WITNESS: Again, depends on the situation.</p> <p>11 I wouldn't have a problem if -- if a report was done</p> <p>12 weeks later. Again, it depends on the interview.</p> <p>13 It depends on -- it just depends on the situation.</p> <p>14 Again, like I stated before, investigations, they're</p> <p>15 not the same, so I can't take an investigation and</p> <p>16 compare it to another investigation. There isn't --</p> <p>17 again, in my 18-year career as an investigator and a</p> <p>18 supervisor, I've never come across investigation</p> <p>19 that was the same.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. So in, I believe it's in the same -- okay.</p> <p>22 Apologies. So back in your report now, on Page 12 in</p> <p>23 the third full paragraph.</p> <p>24 A. Give me one second.</p> <p>25 Q. Absolutely. Take your time.</p>
<p style="text-align: right;">Page 159</p> <p>1 "Relying on memory alone to prepare reports weeks, days,</p> <p>2 and even hours later creates the risk of losing critical</p> <p>3 information," that piece, do you agree or disagree?</p> <p>4 A. Well, again, I'm not a memory person. It</p> <p>5 could, it could not. So I have to go both ways on the</p> <p>6 answer.</p> <p>7 Q. And then the second piece, would you agree</p> <p>8 that detectives are routinely trained that failing to</p> <p>9 prepare a report weeks, days, or hours after they get</p> <p>10 some kind of critical information is a failure to</p> <p>11 accurately document that information?</p> <p>12 MR. BRUEGGEN: Object to form.</p> <p>13 THE WITNESS: I disagree with that. It's not a</p> <p>14 failure. Just because they write a report an hour</p> <p>15 later, two hours later, a day later, it's not a</p> <p>16 failure. You would have to come up with a specific</p> <p>17 report and interview.</p> <p>18 BY MS. MARTINEZ:</p> <p>19 Q. Okay. And then to the --</p> <p>20 A. And --</p> <p>21 Q. -- the last -- oh, apologies. Sorry. I</p> <p>22 didn't mean to cut you off.</p> <p>23 A. I was just saying for me to determine if it's</p> <p>24 a failure or not, so I totally disagree with that.</p> <p>25 Q. Okay. And then just to clarify, you also</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Okay. I'm on Page 12.</p> <p>2 Q. Okay. Where you say -- let me make sure that</p> <p>3 this is -- yes. Okay. It's toward the bottom of the</p> <p>4 third full paragraph on Page 12, where you say, quote,</p> <p>5 "Detectives gather all the evidence, whether that is</p> <p>6 physical, eyewitness, or circumstantial and present that</p> <p>7 to the state's attorney." Do you see that, sir?</p> <p>8 A. I do.</p> <p>9 Q. Okay. You would agree that this is best</p> <p>10 practice, yes?</p> <p>11 A. Yes, I believe that.</p> <p>12 Q. Okay. And would you agree that it would be</p> <p>13 misconduct for an officer to not turn such materials</p> <p>14 over to the state's attorney?</p> <p>15 MR. BRUEGGEN: Object to form. Incomplete</p> <p>16 hypothetical.</p> <p>17 THE WITNESS: I can't say if there would be</p> <p>18 misconduct. I would agree that all the evidence or</p> <p>19 all the -- everything should be turned over, but I'm</p> <p>20 not going to say it should be misconduct.</p> <p>21 BY MS. MARTINEZ:</p> <p>22 Q. Okay. And forgive me if this feels like an</p> <p>23 obvious question and with the caveat that I know you're</p> <p>24 not a lawyer or a Brady expert, but are you familiar</p> <p>25 with a Brady obligation?</p>

<p style="text-align: right;">Page 162</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And could you define that for me</p> <p>3 please, in your own words?</p> <p>4 A. So basically that all the documentation must</p> <p>5 be turned over. Can't hold anything back.</p> <p>6 Q. And would you agree that part of the rationale</p> <p>7 of a Brady obligation is that ensuring the</p> <p>8 constitutional rights of criminal defendants is</p> <p>9 important, yes?</p> <p>10 MR. BRUEGGEN: Object to form and foundation.</p> <p>11 Go ahead, sir.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Okay. And would you agree that ensuring the</p> <p>15 right person is caught and prosecuted is also important,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. So now I'd like to go to Page 13, the first</p> <p>19 full paragraph.</p> <p>20 A. Okay.</p> <p>21 Q. Where you state that, quote, "Eyewitness</p> <p>22 identifications tend to be reliable as long as they</p> <p>23 provide consistent statements throughout the</p> <p>24 investigation and their ability to perceive the offender</p> <p>25 makes sense." Do you see that, sir?</p>	<p style="text-align: right;">Page 164</p> <p>1 doesn't make sense to me, then again, it's not a</p> <p>2 reliable witness. If the story's changing, if -- if --</p> <p>3 if they're going so off key like that. The, you know --</p> <p>4 the female Black with white hair and then I got the male</p> <p>5 Hispanic with no hair. So again, I can keep going on,</p> <p>6 but, you know, instances like that where it wouldn't be</p> <p>7 reliable and it would not make sense.</p> <p>8 Q. Okay. Are there any specific contexts in</p> <p>9 which, in your opinion, you might think the eyewitness's</p> <p>10 ability to perceive the offender did not make sense?</p> <p>11 And I'll give you a few examples to respond to. Do you</p> <p>12 think that it would make sense for an eyewitness to</p> <p>13 perceive the offender if they were in a moving car?</p> <p>14 MR. BRUEGGEN: Object to form. Incomplete</p> <p>15 hypothetical. Go ahead.</p> <p>16 THE WITNESS: Again, hypothetically, is the car</p> <p>17 going 100 miles an hour? Is the car rolling through</p> <p>18 -- it just stopped at a stop sign? Is it stopped at</p> <p>19 a red light? It would just depend on -- when you</p> <p>20 say moving car, you know, we have a lot of factors</p> <p>21 there to consider.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. Okay. And what about if they perceived the</p> <p>24 suspect while that person were running through a crowd?</p> <p>25 MR. BRUEGGEN: Object to form. Incomplete</p>
<p style="text-align: right;">Page 163</p> <p>1 A. I do.</p> <p>2 Q. Okay. Could you please first state for me the</p> <p>3 factual basis for this opinion?</p> <p>4 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>5 THE WITNESS: Well, again, with my experience,</p> <p>6 whenever I interviewed witnesses, first I needed to</p> <p>7 deem if they were reliable. If their stories kept</p> <p>8 changing, then to me, they would not be a credible</p> <p>9 witness. I always wanted consistent statements and</p> <p>10 that should be any investigator interviewing</p> <p>11 witnesses because once the story starts changing,</p> <p>12 then you have a possibility of a not credible</p> <p>13 witness.</p> <p>14 BY MS. MARTINEZ:</p> <p>15 Q. Okay. And then regarding the end of that</p> <p>16 sentence where you discuss the eyewitness's ability to</p> <p>17 perceive the offender making sense, in what instances</p> <p>18 would a person's ability to perceive the offender not</p> <p>19 make sense?</p> <p>20 A. If their statement basically was going all</p> <p>21 over the place. If let's say, I'm interviewing a</p> <p>22 witness and they're telling me the male white subject</p> <p>23 with one arm, and then later on, it's the male -- female</p> <p>24 or female white subject with no legs. And again, I'm</p> <p>25 being very just to get my point across. If -- if it</p>	<p style="text-align: right;">Page 165</p> <p>1 hypothetical. Go ahead.</p> <p>2 THE WITNESS: Again, just because somebody's</p> <p>3 running through a crowd, if somebody's focused on</p> <p>4 somebody and sees something, you know, if they're</p> <p>5 saying that's a statement and it's a reliable</p> <p>6 statement, we have to take what they're saying.</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. And if you have a witness who claims they saw</p> <p>9 the crime but did not see the perpetrator's face, would</p> <p>10 that then qualify as an instance in which their ability</p> <p>11 to perceive the offender did not make sense, in your</p> <p>12 experience?</p> <p>13 MR. BRUEGGEN: Object to form. Incomplete</p> <p>14 hypothetical. Go ahead, sir.</p> <p>15 THE WITNESS: Well, again, we talked about this</p> <p>16 earlier, just because you don't see a face doesn't</p> <p>17 mean that you can't make an identification. So</p> <p>18 again, it could be -- no investigation is the same.</p> <p>19 So it -- again, it's just going to depend.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Okay.</p> <p>22 MR. BRUEGGEN: Alyssa, when you're at a</p> <p>23 breaking point, can we take a break, please?</p> <p>24 MS. MARTINEZ: Yes, absolutely. I'm going to</p> <p>25 quickly check to see if I have any other questions</p>

<p style="text-align: right;">Page 166</p> <p>1 on this section and if not, I'm ready to break.</p> <p>2 MR. BRUEGGEN: All right. Thanks.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. I have one last question for you, sir, on this</p> <p>5 line of questioning, and it's a clarification question.</p> <p>6 In your report, you don't opine on any factors that</p> <p>7 might have drawn a witness's attention away from the</p> <p>8 face of the shooter; is that correct?</p> <p>9 A. I believe I do not.</p> <p>10 MS. MARTINEZ: Okay. That's all I have on that</p> <p>11 line, sir. So the parties want to meet back in 10</p> <p>12 minutes, at 2:18?</p> <p>13 MR. BRUEGGEN: Five minutes, 10 minutes,</p> <p>14 whatever you need. I just want to run to the</p> <p>15 bathroom.</p> <p>16 MS. MARTINEZ: Yeah, I am also going to do</p> <p>17 that. So let's say 2:18.</p> <p>18 MR. BRUEGGEN: All right. Sounds good. Thanks.</p> <p>19 MS. MARTINEZ: Okay. Thanks.</p> <p>20 THE REPORTER: Okay. We are off record. The</p> <p>21 time is 2:08 p.m. Central.</p> <p>22 (OFF THE RECORD)</p> <p>23 THE REPORTER: We are back on record for the</p> <p>24 deposition of Ronald Muich being conducted by video</p> <p>25 conference. My name is Kyra Tate. Today is</p>	<p style="text-align: right;">Page 168</p> <p>1 And I'm not sure what I would do, but I would have</p> <p>2 to further interview that person to see why him or</p> <p>3 her did change their mind.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. And just to confirm your testimony, you</p> <p>6 said that in none of the documents that you reviewed did</p> <p>7 you see any of the eyewitnesses state that they were</p> <p>8 unsure of the identification they had made after they</p> <p>9 made that identification?</p> <p>10 A. I'm going off of when they made the</p> <p>11 identification and when they testified at trial,</p> <p>12 everybody stayed under identification.</p> <p>13 Q. Would you agree that in general, a longer a</p> <p>14 witness sees a suspect's face, the more likely that</p> <p>15 person is to be able to make a positive identification?</p> <p>16 MR. BRUEGGEN: Objection. Form. Foundation.</p> <p>17 Incomplete hypothetical. Go ahead, sir.</p> <p>18 THE WITNESS: That's a hard question to answer</p> <p>19 because, again, there is no perfect world, perfect</p> <p>20 science that, if I tell you if you stare at somebody</p> <p>21 for 63 seconds, you're going to make a great</p> <p>22 identification, or if you see someone for two</p> <p>23 seconds, you're going to make a great</p> <p>24 identification. So it just depends on the person,</p> <p>25 depends on the trauma the person's going through as</p>
<p style="text-align: right;">Page 167</p> <p>1 November 15, 2023. The time is 2:18 p.m. Central.</p> <p>2 BY MS. MARTINEZ:</p> <p>3 Q. So Mr. Muich, on Page 13 of your report in the</p> <p>4 first full paragraph, you state that, "And so police</p> <p>5 have three witnesses from three different vantage points</p> <p>6 that all identified Demetrius Johnson as the shooter."</p> <p>7 Do you see that, sir?</p> <p>8 A. You said Page 13?</p> <p>9 Q. Yes. In the first full paragraph toward the</p> <p>10 bottom. I believe it's five lines up from the bottom.</p> <p>11 A. Okay. I got it.</p> <p>12 Q. Okay. So with that statement, after you have</p> <p>13 these three witnesses make their identification, Elba,</p> <p>14 Rosa, and Ricardo, would it affect your opinion on --</p> <p>15 strike that, please. After you have this identification</p> <p>16 of Mr. Johnson from these three eyewitnesses, would it</p> <p>17 affect your opinion if one of those witnesses after said</p> <p>18 that he or she was not sure about the identification</p> <p>19 that they made?</p> <p>20 MR. BRUEGGEN: Object to form. Incomplete</p> <p>21 hypothetical.</p> <p>22 THE WITNESS: So to answer your hypothetical</p> <p>23 question, which nowhere in my report that I read or</p> <p>24 wrote in my documentation and said that, but in your</p> <p>25 hypothetical question, yes, it would change my mind.</p>	<p style="text-align: right;">Page 169</p> <p>1 they're seeing whatever they're seeing. It just</p> <p>2 depends. So again, no investigation is the same, so</p> <p>3 it would just depend on the situation.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. Okay. But in general; would you agree that</p> <p>6 that's a true statement or no?</p> <p>7 A. I --</p> <p>8 MR. BRUEGGEN: Objection. Asked and answered.</p> <p>9 Go ahead, sir.</p> <p>10 THE WITNESS: Again, it -- it would -- it would</p> <p>11 just depend situation by situation. I cannot -- I</p> <p>12 cannot -- if -- if I would give you answer with</p> <p>13 that, it would be a hypothetical, and that's the</p> <p>14 best I could do.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. Okay. What would your hypothetical answer be?</p> <p>17 A. I mean, I -- I -- hypothetically, I guess --</p> <p>18 and I'll just take myself. If I looked at someone</p> <p>19 longer, I guess I would get a better description of the</p> <p>20 person, but I'm also the person, because I've been doing</p> <p>21 this for 28 years, that I do have a real good memory,</p> <p>22 too. If I look at somebody for a few seconds, I can</p> <p>23 pick out that person also, so --</p> <p>24 Q. Okay. In your experience, if there were three</p> <p>25 witnesses who IDed a suspect as being the perpetrator of</p>

<p style="text-align: right;">Page 170</p> <p>1 a crime, but two eyewitnesses that still did not ID that</p> <p>2 person, what would be the appropriate next steps in the</p> <p>3 investigation?</p> <p>4 MR. BRUEGGEN: Object to form. Incomplete</p> <p>5 hypothetical. Go ahead.</p> <p>6 THE WITNESS: Okay. So can we break down that</p> <p>7 question? So you're saying I have three</p> <p>8 eyewitnesses, right?</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Uh-huh.</p> <p>11 A. And only two of those people picked somebody</p> <p>12 up?</p> <p>13 Q. Apologize. I'll rephrase, sir.</p> <p>14 A. Please.</p> <p>15 Q. Let's say you have several witnesses that ID a</p> <p>16 suspect as being the perpetrator of a crime, but you</p> <p>17 still have some eyewitnesses that do not identify that</p> <p>18 person as being the suspect. Are there subsequent</p> <p>19 investigative steps that officers should take?</p> <p>20 MR. BRUEGGEN: Objection. Incomplete</p> <p>21 hypothetical.</p> <p>22 THE WITNESS: Well, hypothetically, I would</p> <p>23 interview the witnesses further, again, to figure</p> <p>24 out if they did make -- or did they -- did they see</p> <p>25 the suspect offender good? Again, if I feel that</p>	<p style="text-align: right;">Page 172</p> <p>1 hypothetical. Go ahead.</p> <p>2 THE WITNESS: So with the people that did not</p> <p>3 identify -- and I put an expert in my -- in my</p> <p>4 report, it -- it would just depend, again, on the</p> <p>5 investigation. If somebody is viewing a lineup and</p> <p>6 they are just having a hard time, they're -- they're</p> <p>7 -- they can't see properly, the lighting is not</p> <p>8 good, and they make a statement like that, I could</p> <p>9 pursue the lineup. But if they come out and say, I</p> <p>10 can't pick anybody out. The person's not there, I</p> <p>11 would be done with that person. I'm not going to --</p> <p>12 I'm not going to push that person and -- and -- and</p> <p>13 basically say, well, why didn't you pick so-and-so</p> <p>14 on, or why didn't you do this? If they can't pick</p> <p>15 anybody out, they can't pick anybody out.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. Okay. So in line with that, in this case,</p> <p>18 when there is the lineup with Elba, Rosa, Ricardo, Angel</p> <p>19 Cordova, and Victor Cordova, and Angel and Victor do not</p> <p>20 identify Mr. Johnson as the perpetrator of the shooting,</p> <p>21 you're saying that you would not conduct any follow-up</p> <p>22 with those eyewitnesses?</p> <p>23 I want to make sure I'm understanding your</p> <p>24 testimony.</p> <p>25 MR. BRUEGGEN: Object to form. Go ahead, sir.</p>
<p style="text-align: right;">Page 171</p> <p>1 the eyewitness is not credible, then I'm not going</p> <p>2 to use that person, you know, to do a lineup or use</p> <p>3 that witness at all. I'll dismiss that witness.</p> <p>4 BY MS. MARTINEZ:</p> <p>5 Q. And for the eyewitnesses that still have not</p> <p>6 identified that person as the perpetrator, would you</p> <p>7 also conduct follow-up steps with them regarding their</p> <p>8 eyewitness identification?</p> <p>9 MR. BRUEGGEN: Object to form. Incomplete</p> <p>10 hypothetical.</p> <p>11 THE WITNESS: So hypothetically, have I ran a</p> <p>12 lineup already with them, or have I not run a</p> <p>13 lineup?</p> <p>14 BY MS. MARTINEZ:</p> <p>15 Q. They -- apologize. I will rephrase. In the</p> <p>16 instance where you have a lineup run, and this is the</p> <p>17 same lineup that all of the eyewitnesses are seeing,</p> <p>18 some of the eyewitnesses identify one of the lineup as</p> <p>19 the perpetrator, some of the eyewitnesses do not</p> <p>20 identify that person. You testified about follow-up</p> <p>21 steps that you might conduct for the eyewitnesses who</p> <p>22 identified the perpetrator. Are there any follow-up</p> <p>23 steps you would conduct with regard to the eyewitnesses</p> <p>24 that did not identify that suspect as the perpetrator?</p> <p>25 MR. BRUEGGEN: Objection. Incomplete</p>	<p style="text-align: right;">Page 173</p> <p>1 THE WITNESS: So when you say that Cordova is -</p> <p>2 - you're saying that they did not pick anybody out?</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. They did not.</p> <p>5 A. In a photo array, they didn't pick anybody</p> <p>6 out?</p> <p>7 Q. This was the in-person lineup that was held on</p> <p>8 July 22, 1991.</p> <p>9 A. Okay. Because Angel Cordova did pick out in a</p> <p>10 photo array, and then he did not pick out in a lineup,</p> <p>11 which --</p> <p>12 Q. Correct, sir.</p> <p>13 A. Which, for me, again, I have -- I have a</p> <p>14 section in my report. I don't have a problem with that.</p> <p>15 For whatever reason, like I stated before, the -- the</p> <p>16 female eyewitness picked somebody out and then there was</p> <p>17 a question with they were all in the same orange</p> <p>18 jumpsuit in a county jail, and she didn't feel</p> <p>19 comfortable with that. So coordinating with the</p> <p>20 sheriffs, I got everybody put into plain clothes. She</p> <p>21 viewed the lineup again. She couldn't pick anybody out.</p> <p>22 That was the end of the story. If you can't pick</p> <p>23 someone out, you can't pick someone out. But again, the</p> <p>24 circumstances were when she did pick somebody out the</p> <p>25 first time, I took in consideration her statement why.</p>



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1 So again, when I talked about discretion before as a  
2 detective, you know, I felt that was good police  
3 practice. I took her statement. She made the statement  
4 about the orange jump clothes. I got the clothing  
5 changed. She couldn't pick anybody out. End of story.  
6 Thank you for participating. Have a nice day.  
7 **Q. Okay. So in your experience and with your**  
8 **training then, in the case of Angel Cordova. Who did**  
9 **identify Mr. Johnson in the photo, but then did not**  
10 **identify him in the subsequent in-person lineup, would**  
11 **you then dismiss him along with the photo identification**  
12 **that he had made?**

13 MR. BRUEGGEN: Object to form. Compound. Go  
14 ahead.

15 THE WITNESS: Well, the photo identification, I  
16 would still document that he picked Demetrius out.  
17 And then when he participated in -- in the photo  
18 lineup to attempt to identify, he didn't pick  
19 anybody out. It is what it is at that point. I'm  
20 not going to push the person, "Why didn't you pick  
21 him out? You picked him out in the photo array." He  
22 didn't pick him out, he didn't pick him out. That  
23 would not be good police practice if -- if -- if I  
24 did that. I think it --

25 BY MS. MARTINEZ:

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1 **Q. Okay.**

2 A. -- I think it speaks more highly of the  
3 detectives who actually did this investigation, that  
4 Angel did pick out an individual. And then when he did  
5 a photo lineup, for whatever reason, and we don't know  
6 that reason, he did not pick anybody out. I don't see a  
7 problem with that whatsoever. It could be anything.  
8 Again, we -- I think we could all agree that this was  
9 some sort of gang. There was gang people involved. We  
10 don't know what -- why he did what he did.

11 **Q. Okay. A quick clarification to make sure I'm**  
12 **understanding your testimony. In what way in your**  
13 **experience could the fact that this homicide may have**  
14 **been gang related have affected Angel Cordova's lineup**  
15 **identifications?**

16 A. And again, I'm giving you a hypothetical that,  
17 if this was gang related, we don't know what his  
18 thinking was. Just like when I dealt with my experience  
19 as a detective, and I had a 14 year old boy that was  
20 shot in the head and he was killed, it was gang related.  
21 And I had statements all over the place because this was  
22 gang related. So again, this is just a hypothetical.  
23 You know, a lot of the people that -- the documentation  
24 that I read, you know, I would say a handful had gang  
25 ties. So we -- we just -- we don't -- we don't know why

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1 Angel changed his mind. But again, I feel more  
2 comfortable that someone who picked somebody out of a  
3 photo array and then doesn't pick out a photo lineup,  
4 they -- they didn't pick somebody out. We're not going  
5 to push it. We're going to move on. We're going to go  
6 where the investigation takes us, where the evidence  
7 leads us. So again, we can go back to Mr. Tiderington's  
8 tunnel vision. If you want to have tunnel vision, let's  
9 just stick with the early on -- the people who picked  
10 someone out. Let's just go charge those people and be  
11 done with it.

12 Again, I don't think the detectives did it. I  
13 think they did a good job. Again, they investigated  
14 this case, and they let the evidence lead them to where  
15 it led them. They presented the case to the felony  
16 review and then felony reviewed. It's their job to  
17 present it to the -- to the -- to the Court system, and  
18 then that's the job of a judge or jury to decide if that  
19 person is guilty or innocent. We're just there to --  
20 we're just there to -- to gather the facts, complete  
21 the investigation and bring all the information to  
22 felony review. And then it's out of our hands unless  
23 they need us for any other future questions they have.

24 **Q. I just have a quick follow-up to make sure**  
25 **that I'm understanding your statements about the**

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1 **connection between this potentially being a gang related**  
2 **homicide and Angel Cordova. Are you implying that**  
3 **potentially the fact that this could be a gang related**  
4 **homicide might have impacted Mr. Cordova in his**  
5 **identifications?**

6 A. So just to be clear, I never said it was a  
7 gang related homicide. I just said a lot of the players  
8 had gang affiliation. I know Mr. Rider talks about --  
9 he's the gang expert. He talks more about the gangs and  
10 who was involved. I'm just saying that there were  
11 people involved that were gang affiliated. We talked  
12 about Angel Cordova picking somebody out. Again, I don't  
13 know why he changed his mind or couldn't pick anybody  
14 out. Hypothetically, was he in a gang? Did he know  
15 people in a gang? I don't know if it was a hypothetical  
16 situation, but I never said that this was gang related --  
17 -- a gang related homicide.

18 **Q. Okay. So -- okay. In your experience, if an**  
19 **eyewitness makes an ID at the beginning of an**  
20 **investigation, would you expect officers to follow up**  
21 **with that person about subsequent suspects?**

22 MR. BRUEGGEN: Objection. Incomplete  
23 hypothetical. Go ahead.

24 THE WITNESS: Well, that person would've been  
25 already interviewed, and if we feel like a follow-up

<p style="text-align: right;">Page 178</p> <p>1 interview would be needed, I would assume that that</p> <p>2 person would be talked to again. I don't know. Was</p> <p>3 that person talked to? Again, this is where I go</p> <p>4 back to all investigations are not the same. Was</p> <p>5 that person interviewed? Was lineups done the first</p> <p>6 night? Was somebody picked out? Was somebody not</p> <p>7 picked out? Again, hypothetical. We would have to</p> <p>8 get the whole story before I could really answer</p> <p>9 that question. We just don't know. They could be</p> <p>10 talked to. They could not. It depends.</p> <p>11 BY MS. MARTINEZ:</p> <p>12 Q. Okay. And in your review of the materials</p> <p>13 that you relied on in your report, did you find anything</p> <p>14 in the record that indicates why after Aby Gonzalez made</p> <p>15 his ID of Bryan Johns who was never contacted again by</p> <p>16 the investigating detectives?</p> <p>17 A. I did not see anything regarding that.</p> <p>18 Q. Okay. And then would you agree that, in your</p> <p>19 report, you don't offer an opinion as to whether a</p> <p>20 conviction based purely on eyewitness identifications is</p> <p>21 as strong as one with physical evidence linking the</p> <p>22 suspect to the crime?</p> <p>23 A. I do not.</p> <p>24 Q. Okay. Thank you, sir. Okay. I'm going to</p> <p>25 bring up what we'll mark as Exhibit Number 8. Do you</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Yes, sir.</p> <p>2 A. I don't believe it's appropriate. I do</p> <p>3 believe that it's not -- well, let me rephrase that.</p> <p>4 I believe this lineup is appropriate.</p> <p>5 Q. Okay.</p> <p>6 A. I'm sorry. It's --</p> <p>7 Q. It's been a long day. I know. Okay. With</p> <p>8 this lineup, would you agree that Mr. Johnson is still</p> <p>9 the shortest person?</p> <p>10 A. In this lineup, he is the shortest person,</p> <p>11 yes.</p> <p>12 Q. Okay. And in your opinion, in your</p> <p>13 experience, is it -- is it standard policing practice to</p> <p>14 put the suspect in the middle of a lineup in person when</p> <p>15 that person was also the middle of a photo lineup?</p> <p>16 A. When I ran lineups, we would put the</p> <p>17 individual wherever we saw fit. We never had a -- that</p> <p>18 he's going to be or she's going to be one, two, or</p> <p>19 three. We just put the subject wherever we put the</p> <p>20 subject. There was really never no talk about it.</p> <p>21 Q. Okay. In your experience, if you knew that a</p> <p>22 witness IDed the suspect in the middle of a photo lineup</p> <p>23 and that same witness was coming in to see an in-person</p> <p>24 lineup, would you consider putting them in a different</p> <p>25 spot?</p>
<p style="text-align: right;">Page 179</p> <p>1 see the photo, sir?</p> <p>2 (EXHIBIT 8 MARKED FOR IDENTIFICATION)</p> <p>3 THE WITNESS: I do. And I have a hard copy in</p> <p>4 front of me.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Oh, perfect. Okay. Have you seen this photo</p> <p>7 before?</p> <p>8 A. I have.</p> <p>9 Q. Okay. And can you tell me what it is?</p> <p>10 A. It is a lineup conducted, it looks like, at a</p> <p>11 police station with five male Blacks.</p> <p>12 Q. Okay. And as you testified earlier, it's</p> <p>13 important to have fillers that look like the suspect so</p> <p>14 that the suspect doesn't stand out, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. And the description we discussed</p> <p>17 earlier from Rosa was that the suspect was short, Black,</p> <p>18 and young; is that correct?</p> <p>19 A. I would have to go back to Rosa's section to</p> <p>20 see if that's exactly the words that she used.</p> <p>21 Q. Okay. I'll rephrase. If the depiction of a</p> <p>22 suspect was that the individual was short, Black, and</p> <p>23 young, do you think that this would be an appropriate</p> <p>24 lineup?</p> <p>25 A. The lineup that I'm looking at now?</p>	<p style="text-align: right;">Page 181</p> <p>1 A. I don't even think I would think of that. I</p> <p>2 don't -- I -- I would -- if I put the subject in the</p> <p>3 middle, if he was in the middle or she was in the middle</p> <p>4 of a photo, I wouldn't even think about it.</p> <p>5 Q. Okay. And I want to briefly touch on</p> <p>6 something you testified to earlier as a tattoo</p> <p>7 potentially being a strong indicator of a person's</p> <p>8 identity. And -- so would you agree that, in your</p> <p>9 experience, if a lineup were shirtless and only one</p> <p>10 person had tattoos, could that be a cause for concern?</p> <p>11 MR. BRUEGGEN: Form. Incomplete hypothetical.</p> <p>12 Go ahead.</p> <p>13 THE WITNESS: Again, it depends on the</p> <p>14 investigation. It would depend on interviews. It</p> <p>15 would -- it would just depend. So hypothetically, I</p> <p>16 -- I -- I would say even if somebody had a tattoo</p> <p>17 and they were in a lineup, again, unless my witness</p> <p>18 was talking about tattoos and there was something</p> <p>19 that would make me feel uncomfortable running this</p> <p>20 lineup showing somebody a tattoos -- again, it just</p> <p>21 depends on the investigation.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. If you, sir, were staffing a lineup and you</p> <p>24 knew that your suspect had tattoos, would you try and</p> <p>25 find other people that matched that person's description</p>

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1 with tattoos?

2 A. We would --

3 MR. BRUEGGEN: Form. Incomplete hypothetical.

4 THE WITNESS: We would possibly try. But  
5 again, in the '90s, again, the perfect world, it  
6 might not -- it might be -- it might be a little  
7 tough to do that. So you have to put the lineup to  
8 the best of your ability.

9 BY MS. MARTINEZ:

10 Q. Would you agree that there is nothing in the  
11 record that would suggest why the young men in this  
12 lineup had their shirts off?

13 A. There is nothing that I know of.

14 Q. Oh, I'll stop sharing it, too. Okay. And  
15 would you agree also that you didn't find anything in  
16 the record that explains why it appears the lineup is  
17 happening in a common area rather than a secluded room?

18 MR. BRUEGGEN: Object to form. Misstates the  
19 evidence. Go ahead.

20 THE WITNESS: Well, looking at that photo,  
21 ma'am, I don't know if that's a common room. I -- I  
22 don't know what that room is whatsoever.

23 I can just see what the background is, but I  
24 can't tell you if that's a common room or not.

25 BY MS. MARTINEZ:

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1 Q. So moving on from that, on Page 14 in the  
2 first full paragraph of your report, sir -- I'll give  
3 you a moment to get there.

4 A. page 14, first full paragraph. Yes, ma'am.

5 Q. Okay. You state that, "It is clear from the  
6 record that there is nothing indicating any bad blood  
7 between Detective Guevara and Plaintiff and no  
8 indication as to why Detective Guevara would allegedly  
9 intentionally 'frame Plaintiff' for the shooting." Do  
10 you see that, sir?

11 A. I do.

12 Q. Okay. Is it your opinion that there needs to  
13 be specific bad blood between an individual and an  
14 officer for that officer to frame the person?

15 MR. BRUEGGEN: Objection. Form.

16 THE WITNESS: Well, I'm just going off the  
17 facts of the reports on this, that in Demetrius  
18 Johnson's deposition, these are his words.  
19 Hypothetically, if people have bad blood between  
20 each other doesn't mean that they're going to do  
21 something bad to them. But again, with what you  
22 read, I'm only going according to what I viewed in  
23 Demetrius Johnson's deposition. These are his own  
24 words.

25 BY MS. MARTINEZ:

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1 Q. Right. But is it your opinion that having bad  
2 blood is a requirement for an officer to attempt to  
3 frame someone?

4 MR. BRUEGGEN: Object to form.

5 THE WITNESS: You don't have to have bad blood  
6 or you have to have bad blood. I mean, it's a very  
7 hypothetical question.

8 I mean, just because someone has bad blood with  
9 someone or doesn't have bad blood doesn't mean  
10 they're not going to do something or do something.

11 BY MS. MARTINEZ:

12 Q. Yeah, I appreciate that answer. But the  
13 direct question that I'm asking you is, if you think  
14 that having blood -- excuse me -- strike that, please.  
15 If you think having bad blood is a requirement to an  
16 officer framing an individual?

17 MR. BRUEGGEN: Object to form. Speculation. Go  
18 ahead.

19 THE WITNESS: If I could ask you to rephrase  
20 the question, I'm a little confused on the -- the  
21 context of the question.

22 BY MS. MARTINEZ:

23 Q. Sure. So my question to you is, in your  
24 experience, is it a requirement that an officer needs to  
25 have bad blood with a suspect for that officer to frame

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1 that suspect?

2 MR. BRUEGGEN: Object to form. Foundation.  
3 Speculation.

4 A. Again, I --

5 MR. BRUEGGEN: Go ahead.

6 THE WITNESS: -- I think you said the same  
7 question. You didn't change it. So again, I -- I  
8 apologize. I don't -- it's getting a little bit  
9 later in the day, but I -- I'm having a real hard  
10 time understanding that question.

11 BY MS. MARTINEZ:

12 Q. No, it's okay. I'm -- I suppose a way to  
13 reword it is, in your opinion, in -- every individual  
14 who has -- who is innocent and has been framed by a  
15 police officer, does there need to be bad blood for that  
16 to have happened?

17 MR. BRUEGGEN: Object to form. Foundation.  
18 Speculation. Go ahead, sir.

19 THE WITNESS: Well, in my 28 years of  
20 experience, I've never come across a police officer  
21 framing anybody, so I -- I -- I guess to answer your  
22 question, hypothetically, there doesn't need to be  
23 bad blood. I guess -- again, that's hypothetical.  
24 But again, I also want -- I -- I've never come  
25 across in 28 years, you know, a police officer ever

<p style="text-align: right;">Page 186</p> <p>1 framing anybody, so I can't answer that question</p> <p>2 except in a hypothetical situation.</p> <p>3 BY MS. MARTINEZ:</p> <p>4 Q. Thank you, sir. And just to clarify, your</p> <p>5 report does not opine as to Defendant Guevara's</p> <p>6 motivations; is that correct?</p> <p>7 MR. BRUEGGEN: Object to form.</p> <p>8 THE WITNESS: Correct.</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Thank you, sir. Now I am ready to move to</p> <p>11 page 15. And on page 15, it is the last two paragraphs.</p> <p>12 Oh, I see. Okay. I apologize. It is the last two</p> <p>13 paragraphs that you cite when you are putting in the</p> <p>14 criminal trial transcript and the questioning of</p> <p>15 Elizabeth Martinez. Do you see that part, sir, where it</p> <p>16 starts with the question "After you met up with"?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So in your report, you state in citing</p> <p>19 to that transcript, Question, "After you met up with</p> <p>20 Madalia and Demetrius, what did you do?" Answer, "We</p> <p>21 walked through Wabansia to Washtenaw. Washtenaw, we</p> <p>22 took down to Le Moyne. Le Moyne, we took to Talman. On</p> <p>23 Talman, there's a school called the Humboldt School, so</p> <p>24 we cut through the schoolyard and we ended up on</p> <p>25 Rockwell and Hirsch. We took Hirsch down to Campbell,</p>	<p style="text-align: right;">Page 188</p> <p>1 Perfect. Found it. That's -- okay. Apologies.</p> <p>2 It's JGS_Johnson 166, not 16. And then I will share</p> <p>3 my screen to make this a little easier since this</p> <p>4 transcript is a little messy.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. And so I want to -- are you there, sir?</p> <p>7 A. I am.</p> <p>8 Q. Okay. So then I want to read off the criminal</p> <p>9 trial testimony from the same section that you cite. And</p> <p>10 this is, Question, "After you met up with Madalia and</p> <p>11 Demetrius, what did you do." Answer, "I went with them</p> <p>12 to their -- to his house." Question, "Do you know where</p> <p>13 Demetrius lives?" Answer, "Yes, on Artesian and</p> <p>14 Potomac." Question, "Do you know how you got there?"</p> <p>15 Answer, "We walked through Wabansia to Washtenaw --</p> <p>16 Washtenaw, we took down to Le Moyne. And Le Moyne, we</p> <p>17 took to Talman. On Talman, there's a school called the</p> <p>18 Humboldt School, so we cut through the schoolyard and we</p> <p>19 ended up on Rockwell and Hirsch. We took Hirsch down to</p> <p>20 Campbell, and Campbell, down from Campbell, before</p> <p>21 Potomac, we took gangway, and it led up to his house</p> <p>22 right there on Artesian." Would you agree that it says</p> <p>23 that, sir?</p> <p>24 A. (No audible response).</p> <p>25 Q. Is it easier if I scroll to use the electronic</p>
<p style="text-align: right;">Page 187</p> <p>1 and Campbell -- down from Campbell, before Potomac, we</p> <p>2 took a gangway, and it led up to his house right there</p> <p>3 on Artesian." Would you agree that's what that says,</p> <p>4 sir?</p> <p>5 A. I agree.</p> <p>6 Q. Okay. And then you continue on Page 15 in the</p> <p>7 -- not the paragraph right after the testimony, but that</p> <p>8 second paragraph. You state, "This is quite odd that</p> <p>9 two separate people can give almost the exact testimony</p> <p>10 related to their movements, one person answering a</p> <p>11 series of questions about the root, the other person who</p> <p>12 was asked just one question, and then proceeded to</p> <p>13 mirror the other person's response." Do you see that,</p> <p>14 sir?</p> <p>15 A. I do.</p> <p>16 MS. MARTINEZ: Okay. Next, I'm going to bring</p> <p>17 up Exhibit 7 again, but instead this time on page</p> <p>18 16, so it's going to be Bates stamped JGS_Johnson</p> <p>19 16. And I will put that on the screen as well. Oh,</p> <p>20 apologies. I believe I have the wrong number. Let</p> <p>21 me quickly find the correct -- apologies. I</p> <p>22 scrolled a little too far.</p> <p>23 MR. BRUEGGEN: Are we still on Exhibit 7?</p> <p>24 MS. MARTINEZ: Yes. I'm just -- I'm trying to</p> <p>25 find the proper site that I was looking for. Okay.</p>	<p style="text-align: right;">Page 189</p> <p>1 version?</p> <p>2 MR. BRUEGGEN: I'm sorry. We just dropped Wi-</p> <p>3 Fi on the iPad we're using, so you cut off. I can</p> <p>4 see you on my computer, but the sound cut out, so --</p> <p>5 MS. MARTINEZ: Okay. No worries. No worries.</p> <p>6 Are we are we back, Mr. Brueggen?</p> <p>7 MR. BRUEGGEN: Getting there.</p> <p>8 MS. MARTINEZ: Okay. The joys of Zoom</p> <p>9 depositions.</p> <p>10 MR. BRUEGGEN: And Wi-Fi cut kicks you out, you</p> <p>11 know, after a while.</p> <p>12 MS. MARTINEZ: Right. I have three hot spots</p> <p>13 ready just in case. Okay. Just let me know when</p> <p>14 you're back. Oh, we're good? Okay.</p> <p>15 THE WITNESS: We're back. Yes, ma'am.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. Okay. Were you able to hear the transcript</p> <p>18 that I read?</p> <p>19 A. So you cut off. You finished JGS_Johnson 166.</p> <p>20 You got cut off at 167.</p> <p>21 Q. Oh, okay. So 167 is the same testimony that</p> <p>22 you incorporate in your report. And so I guess my first</p> <p>23 question is, these two transcripts are different,</p> <p>24 correct? With the one being the way that you articulate</p> <p>25 the testimony in your report and the second being the</p>

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1 transcript from the exhibit?

2 A. I am looking at my report right now.

3 Q. Okay. So yeah, take your time.

4 A. So I'm looking at appear to be the same.

5 Q. Would you agree that your report leaves out

6 lines 21 to 24 from JGS\_Johnson 166? And I also have it

7 up on the screen, if that helps between -- flipping

8 between papers.

9 MR. BRUEGGEN: Object to form.

10 THE WITNESS: So it looks like I do not have 21

11 through 24 in my report.

12 BY MS. MARTINEZ:

13 Q. Okay. Thank you, sir. So with that in mind,

14 I'll leave this up on my screen for right now in case

15 it's useful to look at it. When you say on Page 15 of

16 your report that this is quite odd, that two separate

17 people can give almost the exact testimony related to

18 their movements, one person answering a series of

19 questions about the route, the other person who was

20 asked just one question and then proceeded to mirror the

21 other person's response, that Ms. Martinez's response to

22 that one question is not the one that is in your report?

23 MR. BRUEGGEN: Object to form.

24 BY MS. MARTINEZ:

25 Q. It's -- I can -- yeah, I can reword. So, in

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1 your report, you state that Ms. Martinez was asked,

2 "After you met up with Madalia and Demetrius, what did

3 you do?" And then she responded with, "We walked," and

4 then detailed her route, would you agree?

5 A. So I'm going to have to disagree, because I do

6 put both statements in my report.

7 Q. I see the statement from Ms. Reyes. I don't

8 see lines 21 through 24 as it pertains to Ms. Martinez

9 in your report. Could you point out where that is,

10 please?

11 A. So I do not have 21 through 24, but I do have

12 Elizabeth Martinez's statement and Madalia Reyes's

13 statement, the direction that they went where they're

14 explaining how they walked to Demetrius Johnson's house.

15 One being asked a question and one basically being asked

16 -- asked several questions on the location, how they got

17 to the house.

18 Q. Yes. I agree that your report has lines 19

19 and 20 from JGS\_Johnson 166, and then 1 through 8 from

20 167. My question to you is that -- or first, I should

21 say the statement. You agreed that you do not

22 incorporate lines 21 through the 24 on JGS\_Johnson 166;

23 is that correct?

24 A. Correct.

25 Q. Okay. And that is the part where Ms. Martinez

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1 is directly asked, "Do you know how you got to

2 Demetrius's house?" Correct?

3 MR. BRUEGGEN: Can I assist him, Melissa?

4 MS. MARTINEZ: Yes.

5 MR. BRUEGGEN: I think I understand what you're

6 what you're asking.

7 MS. MARTINEZ: Yes.

8 MR. BRUEGGEN: So your report, see this?

9 THE WITNESS: Uh-huh.

10 MR. BRUEGGEN: Matches up with this and the

11 answer is the answer that starts the next page.

12 That's what she's asking about.

13 THE WITNESS: Okay. Which I said, I did not

14 incorporate 21 through 24.

15 BY MS. MARTINEZ:

16 Q. Yes. So then --

17 A. Okay.

18 Q. Apologize. Yes. So then my follow-up

19 question is, would it then make sense for Ms. Martinez

20 to testify how she got to Demetrius's house when

21 directly asked that question?

22 A. So basically, in my report I found it puzzling

23 that basically they did give the same testimony. Again,

24 in my report I was only putting the direct, what I

25 viewed as pretty much the same exact testimony.

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1 Q. Okay. And in your opinion, could these

2 testimonies also be the same because they are simply the

3 truth?

4 A. Well, I did not believe they were the truth,

5 only because when the -- I was reviewing the CPD

6 reports, the investigative part of it, an alibi never

7 came up. They never once talked about an alibi. Police

8 didn't know about an alibi, which good police practice,

9 I'm sure if they would've knew about an alibi, they

10 would've interviewed people. Again, I would think.

11 This alibi only came up later on right before trial to

12 the public defender's investigator Jack Carey, is when

13 this alibi came out and then it came out in court. So

14 again, I know I left out line 21 through 24. I was only

15 making the point that I found it, and again I'll get my

16 wording here, quite odd. That two separate people gave

17 almost the exact testimony on an alibi that was given

18 almost before trial.

19 And again, with Reyes being Demetrius

20 Johnson's girlfriend, pregnant with his child, again,

21 with my experience, I think that individual would be

22 kicking down my police door to try to get me that alibi.

23 Because when I dealt with alibis in the past and someone

24 has something to say, they're going to say it. I did

25 not find it there. It was nowhere in the police reports,



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1 nowhere anywhere else except in the testimony. And then  
2 in fact, when Reyes testifies in her deposition, she's  
3 subpoenaed three times. She doesn't show up, and then  
4 when she shows up on the third time, she refuses to  
5 talk. So again, I'm taking the whole -- I'm taking the  
6 whole complex of the alibi. And when I wrote down -- or  
7 when I, in my report, I took the one statement and the  
8 second statement, that's what I was saying about  
9 mirroring.

10 Q. Yes. I --

11 A. So yeah, 21 through 24 was not put in my  
12 report.

13 Q. Okay. I'm going to ask about the alibi in a  
14 moment, but first I would like, if you could, answer the  
15 question that I had posed about if it's possible that  
16 the two testimonies are similar because they are the  
17 truth. Is that a possibility?

18 A. Anything's a possibility. I find it quite  
19 odd. In my report, I -- it's odd. I -- I -- I don't --  
20 - anything is possible, but I don't see how both were  
21 almost mere testimonies. And again, that's my opinion.

22 Q. Yep. Okay. Understood. And then a  
23 clarification. You were not retained in this case to  
24 evaluate the truth of statements from Plaintiff's alibi  
25 witnesses; is that correct?

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1 A. I was brought on to review the case, the  
2 investigative case.

3 Q. The investigation as pertaining to the  
4 defendant officers, correct?

5 A. Part of it. And then -- which also led me to  
6 everything else that I have had listed on my Addendum E,  
7 document index.

8 Q. Yes. I just am asking you that you were not,  
9 in fact, retained in this case to evaluate the truth of  
10 statements from Plaintiff's alibi witnesses, correct?

11 A. Not specifically, no.

12 Q. Thank you, sir. Okay. On page -- okay, so  
13 now moving on to the alibi. On Page 16, you make a few  
14 different statements regarding Mr. Johnson's girlfriend  
15 at the time who was pregnant with his child. So on page  
16 16, in the first full paragraph after the testimony that  
17 starts, "Reyes, in her testimony," at the end of that  
18 paragraph -- apologies, I'll give you a moment to get  
19 there.

20 A. Okay.

21 Q. At the end of that -- oh, excuse me. At the  
22 end of that paragraph, you say, "Detectives never had an  
23 opportunity to investigate Ray as a statement simply  
24 because it did not exist during their investigation and,  
25 accordingly, could not be considered in their

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1 investigation." Do you see that, sir?

2 A. I do.

3 Q. Okay. And then you also say that --  
4 apologies. I'm going to -- I didn't write down exactly  
5 where. And then right above that, you say that -- in  
6 the same paragraph, you say, "The first time she  
7 mentioned being Johnson's alibi was to the public  
8 defender Jack Carey well after Demetrius Johnson was  
9 charged in this case. In fact, nowhere in the police  
10 investigation, did this route/alibi ever come up." Do  
11 you see that, sir?

12 A. I do.

13 Q. Okay. What is the factual basis for your  
14 opinion that the investigating officers never knew about  
15 Mr. Johnson's alibi?

16 A. Because in the documentation -- documentation  
17 that I reviewed, I never saw anything about an alibi --  
18 an alibi. I never saw any interview that Reyes did talk  
19 to the police. In fact, in her own testimony she  
20 basically said that the first time she ever spoke about  
21 an alibi was to Jack Carey, the investigator from the  
22 public defender.

23 Q. In your experience, would you agree that  
24 investigating a suspect's potential alibi is an  
25 important investigative step?

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1 MR. BRUEGGEN: Objection. Form. Incomplete  
2 hypothetical. Go ahead, sir.

3 THE WITNESS: Yes. Through my experience and  
4 even back to my training, we would always try to  
5 find an alibi. Again, when we're investigating a  
6 case we want to know everything involving that case.  
7 And if there was an alibi, absolutely we would want  
8 to hear that alibi. But in this case, there was no  
9 documentation of an alibi. And when I said the  
10 police never had a chance to investigate an alibi,  
11 there was one that never existed so they -- they  
12 could never investigate that alibi.

13 BY MS. MARTINEZ:

14 Q. Okay. And in your experience, would you agree  
15 that speaking to a suspect's -- strike that, please. In  
16 your experience, would you agree that speaking to a  
17 person that a suspect is dating would be an appropriate  
18 investigative step in ascertaining if there is an alibi?

19 MR. BRUEGGEN: Objection. Incomplete  
20 hypothetical. Go ahead, sir.

21 THE WITNESS: I would hope that if that  
22 individual had an alibi, that individual would want  
23 to come and talk to us to supply us with that alibi.  
24 Again, this is her boyfriend. She's pregnant with  
25 his child. She has this supposed alibi. Again, I

<p style="text-align: right;">Page 198</p> <p>1 find it very -- very puzzling why this young lady</p> <p>2 would not want to come and speak to the police to</p> <p>3 try to help her boyfriend. So again, the alibi</p> <p>4 never came out until almost right before trial.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. So and just to make sure I'm understanding</p> <p>7 your testimony as you're giving it, is it your opinion</p> <p>8 then that the onus is on civilians to prove their</p> <p>9 innocence rather than the State to prove a person's</p> <p>10 guilt?</p> <p>11 MR. BRUEGGEN: Object to form. Misstates his</p> <p>12 testimony. Go ahead, sir.</p> <p>13 THE WITNESS: In my opinion, I would hope that</p> <p>14 if I have a suspect in a homicide, and if there's</p> <p>15 any information out there, good, bad, indifferent,</p> <p>16 it doesn't matter, that that person would come</p> <p>17 forward and talk to us. And if we can corroborate</p> <p>18 that alibi, then I guess us as detectives, we either</p> <p>19 need to figure out if that alibi is true. If it is</p> <p>20 true, then we need to move out and find another</p> <p>21 suspect.</p> <p>22 BY MS. MARTINEZ:</p> <p>23 Q. Okay. And just to -- apologies, I missed if</p> <p>24 you gave a direct answer to the question, but in your</p> <p>25 experience, would you agree that speaking to the person</p>	<p style="text-align: right;">Page 200</p> <p>1 my training, I find it very -- very odd that a person</p> <p>2 who has this sort of alibi that can potentially help her</p> <p>3 boyfriend, she would not share this with the police.</p> <p>4 Q. Okay. And my follow-up question to that is,</p> <p>5 as you've said multiple times today, every investigation</p> <p>6 is different. Would you agree that every individual is</p> <p>7 different?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So things that certain individuals may</p> <p>10 do in response to someone being a suspect in an</p> <p>11 investigation may not be true for someone else, correct?</p> <p>12 A. Can you repeat the question, please?</p> <p>13 Q. Yes. So certain things that an individual may</p> <p>14 do when someone they know is being investigated of a</p> <p>15 crime are not the same steps that another person may</p> <p>16 take. Would you agree with that?</p> <p>17 A. I would agree with that.</p> <p>18 Q. Okay, sir. And apologize, I know we've gone</p> <p>19 over your trainings a few times, but I'd like to ask:</p> <p>20 Have you ever received specific training on working with</p> <p>21 juveniles?</p> <p>22 A. I was never a juvenile officer, but we did do</p> <p>23 in-house juvenile training, but I was never actually</p> <p>24 certified in becoming a juvenile officer.</p> <p>25 Q. Okay. And what were some of the in-house</p>
<p style="text-align: right;">Page 199</p> <p>1 a suspect is dating could be an inappropriate step in</p> <p>2 figuring out if that person has an alibi?</p> <p>3 MR. BRUEGGEN: Objection. Form. Incomplete</p> <p>4 hypothetical.</p> <p>5 THE WITNESS: You said could be appropriate?</p> <p>6 BY MS. MARTINEZ:</p> <p>7 Q. Yes.</p> <p>8 A. Could be appropriate. Could be helpful, yes.</p> <p>9 Q. Okay. Thank you, sir. Okay. So it --</p> <p>10 relatedly [sic], on the same page, Page 16, two</p> <p>11 paragraphs down, you state, "If Reyes could provide a</p> <p>12 solid alibi on the night of the shooting for the father</p> <p>13 of her child, she would be adamantly sharing the</p> <p>14 information with the police and anyone who would</p> <p>15 listen." Do you see that, sir?</p> <p>16 A. I do.</p> <p>17 Q. Okay. Can you please tell me the factual</p> <p>18 basis for that opinion?</p> <p>19 A. Well, again, in my experience, I've dealt with</p> <p>20 a lot of suspects, I've dealt with a lot of people, I've</p> <p>21 dealt with a lot of family members who would nonstop,</p> <p>22 keep continuing to try to talk to us and provide us</p> <p>23 information. So again, regarding Reyes, I would hope</p> <p>24 that she would come and give this alibi if, in fact,</p> <p>25 there actually was an alibi. Again, with my experience,</p>	<p style="text-align: right;">Page 201</p> <p>1 trainings that you participated in regarding juveniles?</p> <p>2 A. Just basically when we do house a juvenile,</p> <p>3 what the juvenile's rights are. Throughout my career,</p> <p>4 the age did change with juveniles. When I first</p> <p>5 started, I believe it -- the juvenile -- they deemed the</p> <p>6 juvenile being under 18 years old and then they -- they</p> <p>7 changed the age. So it was just in-house training like</p> <p>8 that, just to kind of familiarize us with basically</p> <p>9 housing the juveniles.</p> <p>10 Q. Okay. And just a point of clarification, your</p> <p>11 report does not opine on what civilian actions should</p> <p>12 have been taken during defendant officer's investigation</p> <p>13 into the Fred murder, correct?</p> <p>14 MR. BRUEGGEN: Object to form. Did you say</p> <p>15 civilian actions?</p> <p>16 MS. MARTINEZ: Yes.</p> <p>17 MR. BRUEGGEN: Objection. Form. Go ahead,</p> <p>18 sir.</p> <p>19 THE WITNESS: I'm going to need you to repeat</p> <p>20 that, please.</p> <p>21 BY MS. MARTINEZ:</p> <p>22 Q. Yes. Okay. I just want to make sure, you</p> <p>23 know, that your report does not opine on what</p> <p>24 individuals like Mr. Johnson's girlfriend should have</p> <p>25 done during the defendant officer's investigation into</p>

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1 the Fred murder, correct?

2 A. Well, again, being an investigator for 18  
3 years and working some of the cases that I've worked and  
4 supervised, again, I just find it odd. I'm not saying  
5 that what she should've did. My opinion is that she  
6 should've came forward with this alibi if, in fact, this  
7 alibi was true. Again, with my experience, I've had  
8 people every day at our station door waiting for us to  
9 get to work to talk to us. And again, her boyfriend is  
10 charged with first degree murder and she's withholding  
11 this information and not giving it until a later date,  
12 and then not talking while she's subpoenaed. Again, I  
13 just find it odd. I'm not saying what she should have  
14 done or what she shouldn't have done. I just made a --  
15 a -- my opinion was, I found it quite odd that both of  
16 these statements were almost the same and they weren't  
17 brought up earlier in investigation, and that the police  
18 officers could not investigate an alibi that basically  
19 never existed. If they would've pulled an alibi out of  
20 thin air, then we would've had a problem, but it never  
21 was there.

22 Q. Okay. So on Page 16, sir, in the last  
23 paragraph that starts, "When Johnson spoke," you see  
24 that?

25 A. I do. I'm reviewing it now.

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1 Q. Okay. So in that paragraph you say, "This  
2 would seemingly be a memorable event and detail should  
3 be easily recalled when discussing the Chicago Bulls NBA  
4 championship game." Let me know when you've had a  
5 chance to review.

6 A. Okay.

7 Q. So in your experience, in a normal case, when  
8 nothing exciting happened the night of a crime, would  
9 you have any reservations about asking a suspect where  
10 they were on a weekday six weeks previous?

11 MR. BRUEGGEN: Object to form. Go ahead, sir.

12 THE WITNESS: No.

13 BY MS. MARTINEZ:

14 Q. Why not?

15 A. Because again, I talked about time frame  
16 before. A day, two days, three days, a week. You're  
17 still going to ask that person a question. I don't care  
18 if it's six weeks later. A person could remember  
19 something. I'm just not going to dismiss it because  
20 it's six weeks later.

21 Q. Yes, sir. I can rephrase. I don't mean not  
22 asking them at all, whatsoever. I think my question is  
23 more in a normal case, when you're asking a suspect  
24 about what they did on a weekday six weeks previously,  
25 would you expect them to remember details?

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1 A. Again, I've said it several times. I'm not a  
2 memory expert. I don't -- never studied the memory. I  
3 don't know an individual, what they can remember what  
4 they can't remember. Some people I've encountered have  
5 great memories. Some people I've encountered had  
6 terrible memories, so.

7 Q. So you wouldn't have any reservations  
8 immediately?

9 A. I would not have --

10 MR. BRUEGGEN: Object to form.

11 THE WITNESS: I would have not -- I would've no  
12 reservations at all.

13 BY MS. MARTINEZ:

14 Q. Okay. From the materials you've reviewed of  
15 the record, did you find anywhere where, while someone  
16 was questioning Mr. Johnson before he was formally  
17 charged, they told him that the murder happened the  
18 night the Bulls won the NBA championship?

19 A. I know there's a conversation between ASA  
20 Buckley and Demetrius Johnson. I would have to go back  
21 to that CPD report and -- to answer that question for  
22 you.

23 Q. You can if you have it in front of you, but I  
24 can --

25 A. I do.

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1 Q. -- also tell you. Yeah, they say June 12th.  
2 There is no mention of the NBA championship game.

3 A. Okay. I'll -- I'll take your word for that.

4 Q. Is there anywhere else in the record you can  
5 think of that you might've seen someone telling Mr.  
6 Johnson that that night was the same night that the  
7 murder happened, before he was charged?

8 A. Nothing that I can recall in the report, but  
9 again, I'm not privileged to any kind of information  
10 that was between him and his attorney.

11 Q. Okay. So if Mr. Johnson were asked about his  
12 alibi six weeks previously and not told that it was the  
13 same night as the NBA championship game, would that  
14 affect your opinion that he should have been -- it --  
15 that it should have been easy to recall what he was  
16 doing that night?

17 MR. BRUEGGEN: Object to form. Go ahead, sir.

18 THE WITNESS: And I apologize, I'm going to  
19 have to have you repeat that.

20 BY MS. MARTINEZ:

21 Q. I can, yes.

22 A. I'm -- a little confusing two-part question.

23 Q. Yes. So if ASA Buckley had never told  
24 Mr. Johnson that the night of the murder was the same  
25 night as the championship game, which, from the record

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1 we cannot tell if he did at any point, would it affect  
2 your opinion on the -- strike that, please. When you  
3 say that this would seemingly be a memorable evening and  
4 detail should be easily recalled, would that still be  
5 true if Mr. Johnson didn't have any flagship for that  
6 evening? If he didn't know it was the night of the  
7 championship game?

8 MR. BRUEGGEN: Object. Go ahead, sir.

9 THE WITNESS: Well, when you put it that way,  
10 he would have no -- possibly have no recollection of  
11 it, but basically in the testimony they were going,  
12 his girlfriend and a friend, they were going to his  
13 house because he wanted to watch the basketball  
14 game. In fact, they really weren't interested in  
15 watching the basketball game. He went into his  
16 bedroom, watched the basketball -- basketball game  
17 while they sat in the kitchen and -- and talked. So  
18 in what I reviewed, and the understanding that I  
19 got, and the opinion that I give is that Demetrius  
20 Johnson did, in fact, want to watch that game. And  
21 in fact, getting to the two girls, they knew it was  
22 really, really important for the Bulls to win the  
23 championship on that Wednesday night only because,  
24 and I, again, I think it was Clemente High School,  
25 that Clemente High School's graduation was Friday.

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1 And if there would've been another game that  
2 would've interfered with Clemente, and that was  
3 another part of the testimony that they did talk  
4 about. So yeah, I do believe that this Chicago  
5 Bulls, it was important to the three parties  
6 involved, the two females and Demetrius Johnson.

7 BY MS. MARTINEZ:

8 Q. Yes, but would it affect your opinion on  
9 Mr. Johnson's conversation with ASA Buckley, which is  
10 what you are analyzing in that paragraph of your report,  
11 if he only found out that the shooting happened the same  
12 night as the championship after he were charged?

13 MR. BRUEGGEN: Object to form. Go ahead.

14 THE WITNESS: I don't know if I can honestly  
15 say it would affect my opinion. I don't know.  
16 Again, investigations are different. What I do know  
17 is that it's a very small statement with Mr. Buckley  
18 and Demetrius Johnson. Again, I think we're in  
19 agreement that there is part of the file that is  
20 missing. In my experience with being a detective,  
21 and even being a patrol officer and having felonies,  
22 that if felony review came out, they would be  
23 filling out what we would call a jacket. They would  
24 be interviewing witnesses. They would be asking for  
25 evidence. They would be doing all of that. Again,

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1 we only have that small blurb with the conversation.  
2 So to answer your question, I can't answer that  
3 because, again, I don't have all of the information.  
4 Possibly that information is some of that reports  
5 that are missing.

6 BY MS. MARTINEZ:

7 Q. Okay. And apologies again if this is  
8 repetitive. I just want to make sure I'm understanding  
9 your testimony. If Mr. Johnson, when he was being  
10 questioned by ASA Buckley, did not know that the night  
11 of the shooting was the same night as the championship,  
12 would it be fair for him to not know where he was or  
13 exactly where he was when first asked?

14 MR. BRUEGGEN: Object to form, speculation. Go  
15 ahead.

16 THE WITNESS: Again, I -- I -- I -- I don't  
17 know. I -- I can't answer that. I cannot give you  
18 -- maybe. Maybe yes, maybe no.

19 BY MS. MARTINEZ:

20 Q. And then my last question in this line of  
21 questioning. In your experience, have you ever  
22 investigated a case where a suspect, upon initial  
23 questioning, did not know where they were the night of a  
24 crime, but when given context was able to provide an  
25 alibi?

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1 A. So I know during my time with Rosemont and,  
2 again, on my task force team, which was a major case  
3 assistance team where we investigated 30 to 40 homicides  
4 and I did do a lot of interviewing with witnesses,  
5 suspects, and there were times where they didn't give an  
6 alibi and then they came back with an alibi and we would  
7 follow through with it. There's times -- times where  
8 they'd give an alibi and we tore apart that alibi. So I  
9 think to answer your questions, there's different times  
10 when you would have an alibi, there's different times  
11 you wouldn't. And again, being with Rosemont and also  
12 the major case assistance team, we investigated a lot of  
13 homicides and we talked to a lot of people. And without  
14 giving you a number, I'm sure we followed up with a lot  
15 of alibis and I'm sure we tore apart a lot of alibis.

16 Q. Okay.

17 MR. BRUEGGEN: It's getting real blurry.

18 THE WITNESS: I'm sorry. Your -- the screen is  
19 getting a little blurry.

20 MR. BRUEGGEN: Melissa, she's got the sun  
21 coming in.

22 THE WITNESS: Okay.

23 BY MS. MARTINEZ:

24 Q. Oh, I'm sorry. We don't have -- I can try to  
25 angle myself a little bit; is that better?

<p style="text-align: right;">Page 210</p> <p>1 A. Yes. That's a little better. Yeah. You just</p> <p>2 started getting a little like you were --</p> <p>3 MS. MARTINEZ: Sorry, I'm attracting the sun.</p> <p>4 Sorry about that.</p> <p>5 MR. BRUEGGEN: 3:15 in November. The sun's</p> <p>6 setting.</p> <p>7 MS. MARTINEZ: It's so sad.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Yes. No problem at all, and just let me know</p> <p>11 if I need to adjust further. So on Page 17, in the last</p> <p>12 full paragraph right before the subsection Brian</p> <p>13 Johnson's Jailhouse Confession, do you see that</p> <p>14 paragraph, sir?</p> <p>15 A. Yes, I'm looking now.</p> <p>16 Q. Okay. So you state that, "When eyewitnesses</p> <p>17 are viewing a lineup, their focus is on the facial</p> <p>18 features of the person they have seen and are asked</p> <p>19 questions like if they recognize anyone, which would</p> <p>20 depend on facial features. Physical attributes such as</p> <p>21 height, weight, and age may contribute, usually</p> <p>22 secondary to the face identification." Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. Okay. Can you please tell me the factual</p> <p>25 basis for that opinion?</p>	<p style="text-align: right;">Page 212</p> <p>1 A. Yes, was -- he was shot in the shoulder. She</p> <p>2 was basically behind. She basically looked. She saw --</p> <p>3 - she admitted that she saw the shooter and then she ran</p> <p>4 up the stairs. So she saw the facial feature. Elba, who</p> <p>5 was in front of her house, basically saw individual run</p> <p>6 past her house with the gun in his hand. She saw him.</p> <p>7 Ricardo, who basically says he was driving and he saw</p> <p>8 the shooting, so he witnessed the shooting. So again,</p> <p>9 there's no indication on if Ricardo saw face, hands,</p> <p>10 legs, but he didn't make an identification. And again,</p> <p>11 I don't know if this is something that's missing from</p> <p>12 the reports that were missing, further that would answer</p> <p>13 those questions. But again, you do have -- but again,</p> <p>14 when I gave my opinion on the facial features, I believe</p> <p>15 that the facial features played a big part of these</p> <p>16 identifications.</p> <p>17 Q. Thank you, sir. On Page 20 of your report,</p> <p>18 we're making our way through it. On Page 20, you</p> <p>19 discussed, and apologies, I don't have the paragraph</p> <p>20 number in front of me so let me -- in paragraphs two and</p> <p>21 three, and feel free to take a moment to review those,</p> <p>22 but you discussed your experience in transitioning to</p> <p>23 computer systems and seeing less filing errors; is that</p> <p>24 correct?</p> <p>25 A. I'm reviewing that right now.</p>
<p style="text-align: right;">Page 211</p> <p>1 A. So with my training and my experience, again,</p> <p>2 with my task force training, this is kind of what we</p> <p>3 started to establish as people giving identifications.</p> <p>4 And I specifically remember at Northwestern that we did</p> <p>5 talk about facial features and other features, and then</p> <p>6 kind of carried into Rosemont. But then it really -- it</p> <p>7 really took off when we were doing the task force</p> <p>8 training. It's kind of what we found that people were</p> <p>9 identifying more with the facial features than any other</p> <p>10 features.</p> <p>11 Q. Okay. And in your review of the materials of</p> <p>12 this case, and in particular the IDs made by Elba, Rosa,</p> <p>13 and Ricardo, do you believe that the facial feature</p> <p>14 identification is primary -- strike that, please. In</p> <p>15 your review of the materials in this case, specifically</p> <p>16 the identifications of Elba, Rosa, and Ricardo, is it</p> <p>17 your opinion that physical attributes are still</p> <p>18 secondary to facial features?</p> <p>19 MR. BRUEGGEN: Object to form.</p> <p>20 THE WITNESS: Well, let me start with Rosa. So</p> <p>21 Rosa was coming down the stairs when the gentleman</p> <p>22 she was with, Ortiz, I believe is his name. I'm</p> <p>23 sorry.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. Yes, Raul Ortiz.</p>	<p style="text-align: right;">Page 213</p> <p>1 Q. Okay.</p> <p>2 A. If you could just give me a few seconds.</p> <p>3 Q. Absolutely.</p> <p>4 A. Okay. I see the part you are referring to.</p> <p>5 Q. Okay. And just a clarification question. Is</p> <p>6 it your opinion in this case that the Erickson report,</p> <p>7 which is Exhibit Number 3, was not turned over because</p> <p>8 of a filing error?</p> <p>9 A. I never said that it was turned -- that it was</p> <p>10 not turned over because of a filing error. I was just</p> <p>11 making reference to back in 1991. And again, I got on</p> <p>12 the job in '87 and then hired full-time in 1995. I knew</p> <p>13 how we did reports. Everything was handwritten. In</p> <p>14 fact, sometimes we would have to use erasable pen to</p> <p>15 correct errors. And once your report was done, you</p> <p>16 would have to walk over to your supervisor's office,</p> <p>17 hand that over to be reviewed. If there were errors or</p> <p>18 corrections needed to be done, they would hand it back</p> <p>19 to you. You could do that several times. Then once a</p> <p>20 supervisor was done with it, they basically would have</p> <p>21 to walk it up to records, where records would file that</p> <p>22 by hand. And during my career, there are instances</p> <p>23 where I was missing paperwork.</p> <p>24 I have one instance where I was missing</p> <p>25 Miranda rights, and it was misfiled, and there was</p>



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1 occasions where I was never able to find it. So I went  
 2 through the transition. And what I was trying to give an  
 3 opinion on is that I went through the transition of how  
 4 reports were written early on in the early '90s, mid-  
 5 '90s, late '90s, to when we started transitioning over  
 6 to computers. And that could be just typing and be able  
 7 to correct your, you know, whatever error. If you  
 8 wanted to change your thought without have to start a  
 9 new report. And then we got through our career where  
 10 everything went, basically, through the computer. That  
 11 we could send everything to records through the  
 12 computer. So I'm not saying that anything was misfiled  
 13 on the Erickson report. Never made mention of that. I  
 14 could just see how things could have happened.  
 15 Especially with the size of Chicago. The documentation  
 16 -- that when they gave documentation to supervisors,  
 17 they literally put it in a basket. And it depends on  
 18 supervisors, days off, the basket gets full, when  
 19 they're going to approve these reports. So again, I  
 20 could just see a lot of problems occurring with this  
 21 method that we had in 1990s. And again, not our fault,  
 22 it's just the way that technology evolved.

23 Q. Okay. Thank you. Thank you for the  
 24 clarification, sir. I'm going to come back to the  
 25 Erickson report later on in your opinion. But yeah, no

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1 other questions on your opinions as to the transition  
 2 from papers to computer systems. So on Page 20, in the  
 3 first paragraph, we're jumping back just a tiny bit, the  
 4 very top of the page; do you see that, sir?

5 A. Starts, "Demetrius Johnson stated"?

6 Q. Yes. Exactly. You state that, quote, "If  
 7 Ms. Gubin thought there was enough proof to tie Bryan  
 8 Johns to the murder, she would've followed up by taking  
 9 initial steps, including interviewing witnesses and  
 10 interviewing Bryan Johns himself." Do you see that?

11 A. Reviewing that right now. Okay.

12 Q. Okay. This is a clarifying question. Your  
 13 report does not opine on proper criminal defense  
 14 strategies, correct?

15 A. Correct.

16 Q. Okay. Thank you, sir. And then on the same  
 17 page, in the second paragraph that starts, "While  
 18 reviewing all". Do you see that?

19 A. I do. I'm reviewing it now.

20 Q. Okay. You state that, quote, "If Miss" -- oh,  
 21 apologies. Strike that, please. You state that, "I can  
 22 say that the written documentation by all the parties  
 23 involved in this case, including police, public  
 24 defenders, and state's attorneys, et cetera, appears  
 25 consistent with standard documentation in the early

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1 1990s." Do you see that, sir?

2 A. I do.

3 Q. What is the basis for this opinion  
 4 specifically in regard to -- or strike that, please.  
 5 What is the factual basis for this opinion?

6 A. So I look at -- when I reviewed all the  
 7 documentation, and I could just see the way that -- and  
 8 I'll just start with the Chicago Police reports. The  
 9 way that they were -- looks like they were typed with a  
 10 typewriter. That would be consistent, in my experience,  
 11 the way that reports were done late '80s, early '90s.  
 12 When I look at -- and -- and this -- please don't take  
 13 this out of line Dave or ma'am. That the way lawyers  
 14 write, when I looked at the state's attorney file and I  
 15 looked at the public defender's file, I mean, I have  
 16 doctors that write better than -- you know, than what I  
 17 was reviewing. But I did find that consistent just the  
 18 way that things were done back in the day. You know,  
 19 I'm not -- I'm not making a joke of it, but that's just  
 20 -- again, that when I go back to the way that technology  
 21 has, you know, progressed, it's just the way things were  
 22 done. And, you know, not so much with the CPD reports,  
 23 but with state's attorney file, public defender file,  
 24 things were hard to read because it was just all  
 25 scribble.

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1 Q. Yes. Thank you, sir. And I promise no  
 2 offense taken at the shot at lawyers' handwriting.

3 A. Thank you.

4 Q. Okay. So this is tying back to something that  
 5 you had very briefly testified to earlier, but on Page  
 6 20, the last paragraph, you state, quote, "While the  
 7 existing file does not contain general progress reports,  
 8 there is evidence that GPRs were prepared." Do you see  
 9 that, sir?

10 A. I do.

11 Q. So first, can you please provide the factual  
 12 basis for that statement?

13 A. Yes. So in Detective Guevara's trial  
 14 testimony, he did make mention that there were GPRs.

15 Q. Okay. And when you were first reviewing this  
 16 case, were you concerned with the lack of police reports  
 17 and interview notes in the files that defendant officers  
 18 -- I'll reword. When you were first reviewing this  
 19 case, and we've talked about the missing documents  
 20 multiple times today, were you concerned with the lack  
 21 of police reports in the investigative file?

22 A. So when I was going through everything, in my  
 23 head I wanted to be sure that I reviewed everything  
 24 before I started to come to any opinion, conclusion. I  
 25 don't like to use the word disturbed. I guess I'll use

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1 the word mystery where some of these files are.

2 Q. So let me -- oh, apologies, sir. I didn't  
3 mean to cut you off.

4 A. No, that's okay. It just -- it just -- I just  
5 wish when I was reviewing -- when I reviewed the whole  
6 case, I wish I could have read some of the missing  
7 files. I don't want to say I was disturbed by it  
8 because, again, I give the opinion to the way things  
9 happened back, again, we're talking about 1991. So I  
10 wish I could have reviewed missing documents. But  
11 again, I wasn't surprised, shocked that there were  
12 documents not where they were supposed to be. Just with  
13 the way that I knew how reporting, recording was all  
14 done back in the 1990s. If that makes sense to you.

15 Q. Yes, sir. So would it be fair to say -- not  
16 disturbed -- would it be fair to say that, in your  
17 review, you were curious why certain documents were not  
18 in the file?

19 A. I would say -- you could say curious. That --  
20 I'm okay with that word.

21 Q. Okay. And then to the other point you  
22 mentioned about looking at Defendant Guevara's testimony  
23 as to supporting the fact that GPRs may have been  
24 created in this case. You testified earlier that you  
25 reviewed his deposition transcript for this case,

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1 correct?

2 A. Correct.

3 Q. And you're aware that a defendant may plead  
4 the Fifth when a truthful answer could subject that  
5 person to criminal prosecution, correct?

6 MR. BRUEGGEN: Object to form. Misstates the  
7 law. Go ahead.

8 THE WITNESS: I'm going to need you to rephrase  
9 that, please?

10 BY MS. MARTINEZ:

11 Q. Are you aware in what instances a person may  
12 plead the Fifth Amendment?

13 MR. BRUEGGEN: Object to form. Go ahead.

14 THE WITNESS: I don't know specific instances,  
15 but I believe that everybody does have the right to  
16 plead the Fifth.

17 BY MS. MARTINEZ:

18 Q. And in your words, what does it mean when a  
19 person pleads the Fifth?

20 A. Well, again, to --

21 MR. BRUEGGEN: Form. Go ahead.

22 THE WITNESS: I reviewed this documentation. I  
23 reviewed the investigative part of it. I reviewed  
24 deposition of Detective Guevara. I reviewed that  
25 depositions, that everything was on my appendix. So

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1 again, I don't really think about the Fifth. I  
2 don't have an opinion on the Fifth, nor did I put  
3 any kind of opinion in my report about the Fifth.

4 BY MS. MARTINEZ:

5 Q. Were you concerned -- I'll -- these -- this  
6 next line of questioning is related to your review of  
7 Defendant Guevara's deposition. Were you concerned when  
8 you read that he pled the Fifth in response to questions  
9 about whether he framed Mr. Johnson?

10 MR. BRUEGGEN: Object to form. Go ahead, sir.

11 THE WITNESS: No, I wasn't concerned.

12 BY MS. MARTINEZ:

13 Q. Why not?

14 A. I read the deposition. He pled the Fifth. I  
15 read my reports. I read other documentation. And  
16 that's the opinion I gave.

17 Q. Okay. Were you concerned when you read that  
18 he pled the Fifth in response to questions about whether  
19 he manipulated and suppressed eyewitness  
20 identifications?

21 MR. BRUEGGEN: Object to form. Go ahead.

22 THE WITNESS: Are you talking about --

23 BY MS. MARTINEZ:

24 Q. In his deposition?

25 A. Okay. No, I did not give any thought. Again,

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1 I don't -- I didn't really concern myself why he gave  
2 the Fifth.

3 Q. Okay. Were you concerned when you read that  
4 Defendant Guevara pled the Fifth in response to  
5 questions about whether he fabricated evidence in this  
6 case?

7 A. No.

8 Q. Why not?

9 A. Again, he pled to Fifth. And I reviewed the  
10 case, and I gave my opinion on the investigation. And  
11 that's how I gave my opinion.

12 Q. Okay. When you were reading through his  
13 deposition transcript, were you concerned that he pled  
14 the Fifth when asked whether he engaged in misconduct  
15 during live lineups and photo identification procedures  
16 used in this case?

17 A. No.

18 MR. BRUEGGEN: Object to form. Go ahead.

19 THE WITNESS: No.

20 BY MS. MARTINEZ:

21 Q. Okay. Why not?

22 A. Again, I focused on the case. When I read his  
23 deposition, I read it through. He pled the Fifth, and I  
24 gave my opinion on a case.

25 Q. Do you think it's permissible for a police

<p style="text-align: right;">Page 222</p> <p>1 officer to plead the Fifth about an investigation that</p> <p>2 they conducted?</p> <p>3 MR. BRUEGGEN: Object to form.</p> <p>4 THE WITNESS: Again, I have --</p> <p>5 MR. BRUEGGEN: Go ahead, sir.</p> <p>6 THE WITNESS: Again, I have no opinion on that.</p> <p>7 I -- again, I don't understand, but that's the</p> <p>8 person's right.</p> <p>9 BY MS. MARTINEZ:</p> <p>10 Q. Are you -- just for clarification, are you</p> <p>11 saying you don't understand why Defendant Guevara did</p> <p>12 that in this case?</p> <p>13 A. No. I just basically read the deposition. He</p> <p>14 gave the Fifth, and I just moved on from it. I mean, no</p> <p>15 opinion one way or the other.</p> <p>16 Q. Okay. Are there any -- just one moment. So</p> <p>17 just -- apologies. Just for clarification so we can</p> <p>18 have a clean record. In response to, do you think it's</p> <p>19 permissible for a police officer to plead the Fifth</p> <p>20 about an investigation they have conducted, you</p> <p>21 responded, you have no opinion one way or the other,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. Thank you, sir. Are there any circumstances</p> <p>25 you can think of under which you think it might be</p>	<p style="text-align: right;">Page 224</p> <p>1 reports that he drafted?</p> <p>2 MR. BRUEGGEN: Object to form.</p> <p>3 THE WITNESS: No. I read his deposition. And</p> <p>4 once I was done with it, I moved on to another</p> <p>5 document. I don't know which one it was, but I just</p> <p>6 moved on from it --</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. Okay. So --</p> <p>9 A. -- on it.</p> <p>10 Q. Okay. So Defendant -- just for -- again, for</p> <p>11 a clean record. For Defendant Guevara's deposition</p> <p>12 testimony, you did not give any weight to his continuous</p> <p>13 taking of the Fifth Amendment in response to questioning</p> <p>14 of his investigation?</p> <p>15 MR. BRUEGGEN: Object to form. Go ahead.</p> <p>16 THE WITNESS: I did not.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. Okay. And the last one, because it</p> <p>19 particularly relates to the support that you cite for</p> <p>20 whether GPRs were created. When you were reviewing</p> <p>21 Defendant Guevara's deposition testimony, were you</p> <p>22 concerned that he pled the Fifth when asked about the</p> <p>23 testimony he gave at Mr. Johnson's criminal trial?</p> <p>24 A. No.</p> <p>25 Q. No. Even though you were relying on that</p>
<p style="text-align: right;">Page 223</p> <p>1 permissible for a police officer to plead the Fifth in</p> <p>2 response to an investigation that they conducted?</p> <p>3 MR. BRUEGGEN: Object to form. Speculation.</p> <p>4 Foundation. Go ahead.</p> <p>5 THE WITNESS: No. I don't give no opinion on</p> <p>6 that.</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. In your experience outside of Defendant</p> <p>9 Guevara's deposition, have you seen it happen any other</p> <p>10 time?</p> <p>11 MR. BRUEGGEN: Object to form.</p> <p>12 THE WITNESS: If I've seen -- what have I seen?</p> <p>13 BY MS. MARTINEZ:</p> <p>14 Q. Maybe -- have you seen -- I'll rephrase the</p> <p>15 question. In your experience, excluding Defendant</p> <p>16 Guevara's deposition testimony, have you ever seen an</p> <p>17 investigating officer plead the Fifth in relation to an</p> <p>18 investigation that they conducted?</p> <p>19 A. No.</p> <p>20 Q. When you were reviewing his -- strike that,</p> <p>21 please. When you were reviewing Defendant Guevara's</p> <p>22 consistent taking of the Fifth in his deposition, did</p> <p>23 you weigh that in any way when determining his</p> <p>24 credibility and his -- and the -- apologies, David. In</p> <p>25 determining his credibility and the credibility of the</p>	<p style="text-align: right;">Page 225</p> <p>1 testimony to support one of your opinions?</p> <p>2 A. I did not.</p> <p>3 Q. Okay. And why not?</p> <p>4 A. Again, I read his deposition. I read that he</p> <p>5 pled the Fifth. I finished the deposition. I moved on</p> <p>6 to other documentation. And then when it was time, I</p> <p>7 gave my opinion.</p> <p>8 Q. Okay. If Defendant Guevara's trial testimony</p> <p>9 about the existence or creation of GPRs were false,</p> <p>10 would that change your opinion on whether or not those</p> <p>11 reports were prepared in this case?</p> <p>12 MR. BRUEGGEN: Object to form. Foundation.</p> <p>13 THE WITNESS: So if there was documentation</p> <p>14 that I've read and it stated that that was the</p> <p>15 truth, then I would have a different opinion. I</p> <p>16 would have to.</p> <p>17 BY MS. MARTINEZ:</p> <p>18 Q. And last question in this line of questioning.</p> <p>19 Would you agree that even if GPRs were prepared in this</p> <p>20 case, they still would need to be turned over to the</p> <p>21 defense?</p> <p>22 A. If there were GPRs and they were in the file,</p> <p>23 I'm sure they would've been turned over to the defense.</p> <p>24 Q. Okay. But would you agree that officers have</p> <p>25 an obligation to turn those reports over to the defense?</p>

<p style="text-align: right;">Page 226</p> <p>1 MR. BRUEGGEN: Objection. Misstates the law.</p> <p>2 THE WITNESS: Again, I believe that -- and I</p> <p>3 would have to go back to the -- to the policy in</p> <p>4 Chicago, that do not believe that they had to create</p> <p>5 GPRs. And if the detectives did create GPRs, would</p> <p>6 I expect it to be in the file? I guess in 1991 I</p> <p>7 would expect to. I've also read that the defense</p> <p>8 attorneys created notes in their own testimony at</p> <p>9 court. I believe it was Ms. Gubin, along with</p> <p>10 Ms. Miller, they created notes, and they admitted</p> <p>11 under oath -- or I don't even know if it was under</p> <p>12 oath. If it was a -- just a discussion with the</p> <p>13 judge, that they created notes in interviews and</p> <p>14 they destroyed them. So I guess if we're talking</p> <p>15 about GPRs on the police end and notes on the public</p> <p>16 defender side, should they have saved their notes?</p> <p>17 You know, so you -- you know what I'm saying?</p> <p>18 They're admitting that --</p> <p>19 BY MS. MARTINEZ:</p> <p>20 Q. Yes.</p> <p>21 A. -- they're getting rid of notes. There were</p> <p>22 GPR notes, but we know there's a missing file or missing</p> <p>23 parts of the file. So we don't know that those notes</p> <p>24 are missing or if those notes -- where are those notes?</p> <p>25 But we know that, on the public defender side, they</p>	<p style="text-align: right;">Page 228</p> <p>1 MR. BRUEGGEN: Just five minutes. Just run to</p> <p>2 the bathroom.</p> <p>3 MS. MARTINEZ: Yeah. Sounds good. Okay. We'll</p> <p>4 meet back at 3:48.</p> <p>5 MR. BRUEGGEN: Sounds good.</p> <p>6 MS. MARTINEZ: Okay. Great.</p> <p>7 THE REPORTER: Okay. We are going off record.</p> <p>8 The time is 3:42 p.m. Central.</p> <p>9 (OFF THE RECORD)</p> <p>10 THE REPORTER: We are back on record for the</p> <p>11 deposition of Ronald Muich being conducted by video</p> <p>12 conference. My name is Kyra Tate. Today is</p> <p>13 November 15, 2023. The current time is 3:53 p.m.</p> <p>14 Central.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. Mr. Muich, on Page 20, in the last paragraph,</p> <p>17 the section we were just looking at, you state that,</p> <p>18 quote, "CPD rules did not require creation of notes and</p> <p>19 detectives could conduct interviews and complete their</p> <p>20 reports upon conclusion of the interviews." You see</p> <p>21 that?</p> <p>22 A. I do.</p> <p>23 Q. Okay. Could you please tell me the factual</p> <p>24 basis for this opinion?</p> <p>25 A. I'm sorry, I'm just rereading it one more</p>
<p style="text-align: right;">Page 227</p> <p>1 admitted they destroyed them.</p> <p>2 Q. Yes. I just want to clarify that in this</p> <p>3 case, as asked previously, you were not retained to</p> <p>4 opine on how defense counsel should have acted in</p> <p>5 Mr. Johnson's defense, correct?</p> <p>6 A. Well, but when I review all the documentation</p> <p>7 and I do get to points that are being questioned in</p> <p>8 different sections of the reports, I want to make sure</p> <p>9 that my opinion is put together with all the</p> <p>10 documentation that I read. So if I'm going to read --</p> <p>11 if I'm going to read, let's just say -- I'll just say</p> <p>12 paper A, if I read it and I feel like something has to</p> <p>13 go in my report with my opinion, I'm going to add it</p> <p>14 because I read it.</p> <p>15 Q. Right. I just want to clarify. You're not an</p> <p>16 expert in criminal defense, right?</p> <p>17 A. That is correct.</p> <p>18 Q. Okay. Thank you, sir.</p> <p>19 MR. BRUEGGEN: Alyssa, can we take a break when</p> <p>20 you move to a new topic?</p> <p>21 MS. MARTINEZ: Yes.</p> <p>22 MR. BRUEGGEN: Is this a --</p> <p>23 MS. MARTINEZ: Yeah. I'm -- yeah. I'm about</p> <p>24 to move to something else, so now is a good time.</p> <p>25 How much time is good?</p>	<p style="text-align: right;">Page 229</p> <p>1 time.</p> <p>2 Q. Take your time.</p> <p>3 A. So like I said before, that during this case</p> <p>4 there was indication that there were GPRs made.</p> <p>5 Detective Guevara said that in his testimony, that they</p> <p>6 were made. That that missing GPR could be missing.</p> <p>7 Also, in the state's attorney file, there was mention</p> <p>8 that there was GPR notes turned over, and those notes</p> <p>9 are missing. Like I made reference to Demetrius</p> <p>10 Johnson's old lawyers, basically, with notes. And</p> <p>11 again, I know they're not GPR notes, but they had notes,</p> <p>12 and then those notes were -- were destroyed or thrown</p> <p>13 away. So my opinion is there were GPR notes. Some. I</p> <p>14 don't know how many. That these GPR notes are missing.</p> <p>15 Part of the missing documents. So again, I can't -- I</p> <p>16 don't know how many were written, how many are missing.</p> <p>17 I can't answer that.</p> <p>18 Q. Okay. And you testified previously that the</p> <p>19 only Chicago Police Department policy that you reviewed</p> <p>20 for this report was the general orders around lineups;</p> <p>21 is that correct?</p> <p>22 A. So I reviewed Chicago Police Department, CPD</p> <p>23 lineup procedure general orders. I believe that's all I</p> <p>24 reviewed.</p> <p>25 Q. Okay. So then for this statement, is there</p>

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1 any other policy that you reviewed that allowed you to  
 2 come to the conclusion that CPD rules did not require  
 3 the creation of notes?  
 4 A. No, I did not review anything like that.  
 5 Q. Okay. Thank you, sir. And then on Page 21,  
 6 in the third paragraph that starts with, "My experience  
 7 is consistent". Let me know when you get there.  
 8 A. Okay.  
 9 Q. You state that, quote, "Juvenile stories need  
 10 to be corroborated with other witness statements to  
 11 ensure that investigators are getting accurate  
 12 information." Do you see that part?  
 13 A. I do not see that part. Which line are you  
 14 going down when you started that?  
 15 Q. It is -- I believe it's halfway through. It's  
 16 the very last sentence of that paragraph on Page 21.  
 17 A. Is that the one where it begins, "The age of  
 18 the witness"?  
 19 Q. No, sir. It begins, "My experience is  
 20 consistent." Page 21, the third paragraph.  
 21 A. 21?  
 22 Q. Oh, apologies. Yes. That sentence begins --  
 23 A. Okay.  
 24 Q. Yeah. Okay. So yes, you state, "Both  
 25 juvenile stories need to be corroborated with other

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1 witness statements to ensure that investigators are  
 2 getting accurate information." Can you please tell me  
 3 the factual basis for that opinion?  
 4 A. So like I gave through my experience when I  
 5 dealt with juveniles, when I worked the frozen young  
 6 lady that was found in a freezer and she was deceased,  
 7 and when I give the example that we had to locate and  
 8 interview 78 people, and I believe a dozen of those  
 9 individuals were juveniles. Again, I -- I -- I did  
 10 agree with Mr. Tiderington that younger witnesses, and  
 11 I'm going to say younger witnesses as in juveniles,  
 12 they're not as reliable as adults, just with their  
 13 statements. And again, this is -- this is with my  
 14 experience when dealing with juveniles. And even when I  
 15 was with the major case assistant team and we had a deal  
 16 with juveniles and interviewed juveniles, it was -- it  
 17 was really a test only because, you know, I mean, the  
 18 maturity level when you're talking to a juvenile and  
 19 you're talking to an adult, at least adult can formulate  
 20 sentences and keep their point going. Juveniles would  
 21 tend to, basically their thought process would go all  
 22 over the place. They would be afraid of the police and  
 23 you could not get a -- an -- an accurate -- an accurate  
 24 summary of what happened.  
 25 Q. A quick clarification question, sir. You

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1 testified earlier that the age with which your  
 2 department classifies juvenile has changed over the  
 3 years. As you use the term, what age are you referring  
 4 to?  
 5 A. So going through my training while I was  
 6 active on the police department, there was a time and I  
 7 don't know the year when a juvenile was classified under  
 8 the age of 18, and then they'd change a juvenile under  
 9 the age of 17. So the age would change. So that was a  
 10 training that we were receiving. And without me going  
 11 back and looking, I -- I couldn't tell you specifically  
 12 when or what age, you know, the time frame when ages  
 13 were, you know, being changed in the state of Illinois.  
 14 Q. Okay. As you use it in your report, which age  
 15 do you refer to?  
 16 A. In this section that we're talking about?  
 17 Q. Yes, sir.  
 18 A. I would believe anybody under the age of 17.  
 19 Q. 17.  
 20 A. And again, in my case that -- that I do talk  
 21 about with the girl in the freezer, I was talking to  
 22 witnesses as -- as young as 12 and 13, not even  
 23 teenagers.  
 24 Q. Okay. In your opinion, is there a distinction  
 25 between pre-teens that are 12 and 13 and people that are

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1 16, 17 when it comes to how inconsistent their stories  
 2 can be?  
 3 MR. BRUEGGEN: Object to form. Foundation. Go  
 4 ahead, sir.  
 5 THE WITNESS: So I specifically would look at  
 6 their age. I would actually look how they are able  
 7 to tell me what happened, form a sentence, keep the  
 8 sentence going. Just pretty much their demeanor.  
 9 Just because, you know, I'm sure I talked to,  
 10 especially in -- in the -- where the girl was found  
 11 in the freezer, I'm sure I talked, without looking  
 12 at that case, the paperwork in that case, I'm sure I  
 13 talked to teenagers who were 12, 13, 14-year-olds,  
 14 who were, you know, maybe more advanced and able to  
 15 talk better and, you know, bring their point home  
 16 more than I would talk to someone who's maybe 15,  
 17 16, 17. So again, I wouldn't look at it -- I  
 18 wouldn't put an age number on it. I would have to  
 19 talk to the individual. I would not dismiss a  
 20 witness just because they were 12, 13, 14-  
 21 years-old. I would have to talk to the -- talk to  
 22 the individual. And again, through my career, we  
 23 also, you know, laws have changed now that where we  
 24 would actually, you know, bring witnesses, you know,  
 25 over to the Children's Advocate Center to where, you



<p style="text-align: right;">Page 234</p> <p>1 know, they have trained advocates who would talk to</p> <p>2 them and -- and stuff like that. So things have</p> <p>3 changed through the career. But again, I think to</p> <p>4 answer your question, I would not put a -- a</p> <p>5 specific number on someone where I would think that</p> <p>6 they wouldn't be able to, you know, formulate</p> <p>7 something.</p> <p>8 BY MS. MARTINEZ:</p> <p>9 Q. Okay. So is it fair to say it would be a case</p> <p>10 by case determination?</p> <p>11 A. That is correct.</p> <p>12 Q. Okay. Thank you, sir. And so it's not your</p> <p>13 opinion that juveniles can never give a correct</p> <p>14 identification and need to always be corroborated; is</p> <p>15 that fair to say?</p> <p>16 A. That is not my opinion, no.</p> <p>17 Q. Okay. And it's then, relatedly, not your</p> <p>18 opinion that adults never need to be corroborated; is</p> <p>19 that fair?</p> <p>20 A. Again, case by case situation. I've talked to</p> <p>21 adults to where, you know, I could be talking to, and</p> <p>22 this is hypothetical, you know, a 50-year-old adult and</p> <p>23 I walk away and I -- I feel like I was talking to a</p> <p>24 15- year-old. So you know, again, it's a case by case</p> <p>25 situation. And you just -- like I said earlier, and</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. No, please take your time. But just to make</p> <p>2 clear, my question isn't about every single thing that</p> <p>3 Aby Gonzalez said and did. My question is, in your</p> <p>4 report you state that Aby Gonzalez denies ever giving a</p> <p>5 lineup and has no recollection of the events, which</p> <p>6 would mean that, in your words, "the lineup report with</p> <p>7 Erickson's name on it was not accurate." My question to</p> <p>8 you is that would this also mean then that the Guevara</p> <p>9 report was not accurate?</p> <p>10 A. Well, in regards with the Erickson report, I</p> <p>11 guess we can't get an -- an answer on that because</p> <p>12 Detective Erickson is deceased, so we cannot get an</p> <p>13 answer on that. So I guess I would say I don't know.</p> <p>14 Q. Okay. So your answer would be that despite</p> <p>15 Mr. Gonzalez saying he doesn't remember a lineup or</p> <p>16 anything, that we don't know if that statement is</p> <p>17 truthful and if the lineups -- strike that, please. And</p> <p>18 if the lineup reports are correct?</p> <p>19 MR. BRUEGGEN: Object to form. Go ahead, sir.</p> <p>20 THE WITNESS: Yeah. I would just have to say</p> <p>21 that without Detective Erickson giving any kind of</p> <p>22 explanation that, yeah, I just -- I cannot answer.</p> <p>23 I don't know.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 Q. Okay. And would you agree also with Defendant</p>
<p style="text-align: right;">Page 235</p> <p>1 I've said it several times, that no investigation's the</p> <p>2 same. So you just have to see where the investigation's</p> <p>3 going to take you.</p> <p>4 Q. Okay. Thank you, sir. So moving on to Page</p> <p>5 22 of your report. In the first paragraph, you state,</p> <p>6 quote, "The lineups were rerun and the report that was</p> <p>7 submitted noted that Gonzalez did not identify Johns.</p> <p>8 Gonzalez was asked about this, and he now denies ever</p> <p>9 viewing the lineup and has no recollection of the</p> <p>10 events, which would mean that the lineup report with</p> <p>11 Erickson's name on it was not accurate." Do you see</p> <p>12 that part, sir?</p> <p>13 A. I do.</p> <p>14 Q. Would you agree that this would also mean that</p> <p>15 the Guevara report was not accurate if Mr. Gonzalez</p> <p>16 testified he never viewed a lineup?</p> <p>17 A. No, I would not.</p> <p>18 Q. Why not? Because I can also bring up Exhibit</p> <p>19 4 again. But Aby Gonzalez is also on Defendant</p> <p>20 Guevara's report of the lineup.</p> <p>21 A. I'm just rereading this section again.</p> <p>22 Q. Please take your time.</p> <p>23 A. So we know that Aby Gonzalez is claiming that</p> <p>24 he's never did a -- a lineup report. I'm sorry. I'm</p> <p>25 just rereading it again.</p>	<p style="text-align: right;">Page 237</p> <p>1 Guevara not giving any explanation?</p> <p>2 MR. BRUEGGEN: Again, form. Go ahead.</p> <p>3 THE WITNESS: There was no -- nothing that I</p> <p>4 reviewed that he gave any kind of explanation.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Okay. Certainly. Is it possible in your</p> <p>7 experience that Mr. Gonzalez simply forgot that he</p> <p>8 participated in the lineups?</p> <p>9 A. Anything is possible.</p> <p>10 Q. Okay. Is it possible that Mr. Gonzalez</p> <p>11 decided for some reason to now be untruthful?</p> <p>12 A. Again, anything is possible. I don't know.</p> <p>13 Q. Sure. And then in your experience, have you</p> <p>14 ever had a witness give a statement or make an</p> <p>15 identification and then rescind that statement or</p> <p>16 identification?</p> <p>17 A. Yes, I have.</p> <p>18 Q. Okay. Can you tell me a little just about the</p> <p>19 context in which that has happened?</p> <p>20 A. So like I think we talked about it before in</p> <p>21 my -- when I did that lineup at the DuPage County Jail</p> <p>22 and all the individuals were in orange jumpsuits and my</p> <p>23 witness made an identification, and then we were done.</p> <p>24 She -- she picked out whatever subject she picked out.</p> <p>25 And then as we were walking away, she made the comment</p>

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1 that she wasn't comfortable making identification  
2 because everybody was in orange jumpsuits. So I took  
3 that as I wasn't just going to take her identification  
4 and move on with it, because that's not following proper  
5 police practices. It's not what I was trained for.  
6 That's not what I did in investigations. I took an  
7 extra step. I coordinated with the sheriff, got  
8 everybody in different clothes, reran the lineup. She  
9 looked at the individual and -- or she looked at the  
10 lineup and she could not pick out the individual. And  
11 again, I was fine with that because again, when I did  
12 lineups, I wanted to make sure that I had a good lineup  
13 and I had a good identification and that's the person  
14 that the person was going to stick to, especially when  
15 they went to trial, follow it all the way to the end.

16 Q. Okay. On Page 21 in the last paragraph, let  
17 me know when you get there.

18 A. Okay. I am on the last paragraph, Page 21.

19 Q. Okay. You say, quote, "In regards to the  
20 Bryan Johns lineup report that was allegedly only,  
21 quote-unquote, 'found decades later,' it does not make  
22 sense that the police were trying to hide that report  
23 when a copy of it was placed in and maintained in the  
24 investigative file." And so my first question is, if  
25 the report that you're referring to, which is the

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1 Erickson report or Exhibit 3 in this case, if that  
2 report were intentionally hidden, do you agree that  
3 would be misconduct?

4 A. So I don't want to use the word misconduct, so  
5 --

6 Q. I can reword. I can reword, sir.

7 A. Yeah. I just don't want to use the word  
8 misconduct --

9 Q. Yes.

10 A. -- because misconduct could -- can mean a lot  
11 of different things and --

12 Q. Yes, I'll reword the question. If that report  
13 were intentionally hidden, would that be out of line  
14 with standard policing practices in 1991?

15 A. So if there was any documentation that I  
16 reviewed that specifically said that that report was  
17 hidden purposely, yes, I would agree with you. But that  
18 report, it wouldn't make sense for that report for  
19 anybody to hide it, because the information was already  
20 out there that Aby Gonzalez picked out Bryan Johns. It  
21 was not a -- it wasn't a secret. Even at trial it could  
22 have been brought up at trial by the defense that Aby  
23 Gonzalez picked out Bryan Johns. They could have  
24 brought Bryan Johns in. They could have subpoenaed  
25 Bryan Johns to -- to trial, but they didn't.

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1 Q. Yeah, I apologize. I didn't mean to cut you  
2 off, sir. Just for clarification. In your report, you  
3 don't opine on criminal defense trial strategy, correct?

4 A. That is correct.

5 Q. Okay. Thank you, sir. Are you familiar with  
6 the Chicago Police Department's history of maintaining  
7 separate files with evidence from investigations, not  
8 all of which are turned over to the defense?

9 MS. CARNEY: Objection. Form.

10 MR. BRUEGGEN: Object to foundation.

11 MS. CARNEY: Foundation. Misstates the  
12 evidence.

13 MR. BRUEGGEN: You can answer, sir.

14 THE WITNESS: No, I do not.

15 BY MS. MARTINEZ:

16 Q. Sure. And in your review of the materials in  
17 this case, particularly the defense's documents, did you  
18 find the report authored by Defendant Erickson?

19 MR. BRUEGGEN: Object to form.

20 THE WITNESS: I would have to see. Was that  
21 the earlier exhibit that we saw?

22 MS. MARTINEZ: Yes, sir. Exhibit Number 3.

23 THE WITNESS: I would have to -- I would have  
24 to see that report.

25 BY MS. MARTINEZ:

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1 Q. Okay. Because you don't recall off the top of  
2 your head seeing it in the --

3 A. I don't recall off the top of my head. Yes,  
4 ma'am.

5 Q. -- the criminal defense documents? Okay.  
6 Thank you, sir. Did you find anything in the record  
7 from the materials you reviewed showing that Mr. Johnson  
8 or his attorneys received that document?

9 MS. CARNEY: Objection. Form.

10 THE WITNESS: Can you repeat the question,  
11 please?

12 MS. MARTINEZ: You can answer. Yeah. Yes, I  
13 can. Did you find anything in the record from the  
14 materials you reviewed which would show that Mr.  
15 Johnson or his attorneys received the lineup report  
16 authored by Defendant Erickson?

17 MS. CARNEY: Same objection.

18 A. So I -- so I do know that in RFC Johnson 12,  
19 that there is a Chicago Police message to Detective --  
20 to Halverson from Sheehan, Kevin Sheehan, and it says,  
21 bring file. So I'm assuming that whatever paperwork was  
22 in the file was turned over to Mr. Sheehan, which then I  
23 would think that whatever was in that file would be  
24 turned over to the defense.

25 Q. Okay. On that note, I would like to share my

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1 screen for our final exhibit, which we'll mark as  
2 Exhibit 9, which is the deposition testimony from  
3 Mr. Sheehan. And I'm on page 43, and I'm also sharing  
4 my screen if that's easier for you to look at as opposed  
5 to flipping through the pages.

6 (EXHIBIT 9 MARKED FOR IDENTIFICATION)

7 THE WITNESS: We're finding it right now,  
8 ma'am.

9 BY MS. MARTINEZ:

10 Q. Okay. No worries.

11 A. Page 43?

12 Q. Yes, sir.

13 A. Okay. Which section, what number?

14 Q. We're starting at Line 1, where -- and I'll  
15 just recite the testimony. Or apologies, starting on  
16 Page 42, Line 23. And the testimony goes, Question,  
17 "All right. So we've been discussing the arguments that  
18 were and were not made at trial. I have to ask this  
19 question, but is there any chance that you were tendered  
20 that report that we looked at, Exhibit 4?" And this is  
21 where they're referring to the report drafted by  
22 Defendant Erickson. Answer, "You're talking about the  
23 lineup where Bryan Johns was picked out?" Question,  
24 "Yes." Answer, "No, because if I had it, I have to sleep  
25 at night. It goes to the defense." Question, "And does

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1 the information in the transcripts we just reviewed,  
2 including -- apologies, including your closing argument,  
3 confirm to you or give you confidence that you had not  
4 been provided a copy of that report marked as Exhibit  
5 4?" An objection by Ms. Rosen. Answer, "It's not the  
6 argument that gives me confidence. What gives me  
7 confidence is the truth. I never got it." Do you see  
8 that, sir?

9 A. I do.

10 Q. Okay. So with this, after reading this  
11 testimony, would you believe that Mr. Sheehan never  
12 received the report drafted by Mr. Erickson?

13 MS. CARNEY: Objection. Form. Calls for  
14 speculation.

15 MS. MARTINEZ: You can answer, sir.

16 THE WITNESS: So if this is what Mr. Sheehan is  
17 testifying to, it would give me no other reason not  
18 to believe him.

19 BY MS. MARTINEZ:

20 Q. Okay. And so then would you agree that as far  
21 as Mr. Sheehan knows that report was never tendered to  
22 Plaintiff?

23 MR. BRUEGGEN: Object to form.

24 THE WITNESS: Again, I would have to say if  
25 this is what Mister -- Mr. Sheehan said, I would

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1 have no other reason not to believe him.

2 BY MS. MARTINEZ:

3 Q. Okay, sir. And then back to your report, sir,  
4 on page 22 in the second paragraph. Are you there?

5 A. Starting "Demetrius Johnson"? Yes.

6 Q. Yes.

7 A. Starting, "Demetrius Johnson"?

8 Q. Yes. Perfect. You state that, "Demetrius

9 Johnson alleges that the lineup report by Detective  
10 Erickson was purposely hidden because it was  
11 exculpatory. However, the evidence shows that Johnson  
12 and his attorney were both aware of this line of  
13 identification. Johnson explained that while in the  
14 Cook County Jail, Johns told him that he was the shooter  
15 and that he was also picked out of a lineup the night of  
16 the shooting. Johnson told his attorney what Johns said  
17 to him. This means that Johnson and his attorney had  
18 not only the alleged exculpatory information from the  
19 report, but also a confession from Johns." Would you  
20 agree that's what that says, sir?

21 A. That is what that says, correct.

22 Q. Okay. Pardon me. Regardless of whether this  
23 statement is true or not, in your experience and  
24 training, would the fact that a plaintiff might already  
25 know information have any bearing on an investigating

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1 officer's duty to turn over reports related to the  
2 suspect's defense?

3 MR. BRUEGGEN: Objection. Form. Foundation.

4 THE WITNESS: So in my experience, if I had a  
5 suspect and the suspect, and we'll just stick with  
6 the -- what you just read to me, if the suspect told  
7 me what was just read to me, I would definitely look  
8 into it. Best police practice would be not just to  
9 hear it and blow it off. I would look into it. If  
10 I felt like I was that far already with the state's  
11 attorney Felony Review, I would bring it to their  
12 attention. I would hope that the state's attorney  
13 Felony Review would have me act on it. They would  
14 do something about it. So I guess the answer to  
15 your question that if this information was -- was  
16 brought to me, yeah, I would definitely look into it  
17 and -- and see where it would take me. Because  
18 again, if there was another individual that was  
19 responsible for the crime that I was charging  
20 someone else with, again, I guess I'll use the --  
21 the words of Kevin Sheehan, I wouldn't be able to  
22 sleep at night either. Again, with why I got into  
23 this profession, with all the training that I went  
24 to, with the almost 17 years on the Major Case  
25 Assistance Team doing all of this, I -- I did it

<p style="text-align: right;">Page 246</p> <p>1 because I wanted to make sure that I put the right</p> <p>2 person to be responsible for their crimes. So I</p> <p>3 hope I answered my question without getting into a</p> <p>4 little more.</p> <p>5 BY MS. MARTINEZ:</p> <p>6 Q. Oh yes. Thank you, sir. And just to clarify,</p> <p>7 regardless of what the -- strike that, please.</p> <p>8 Regardless of what a criminal defendant may or may not</p> <p>9 know about the investigation into what they're charged</p> <p>10 with, officers still have a Brady obligation to turn</p> <p>11 over the appropriate materials; is that correct?</p> <p>12 MR. BRUEGGEN: Objection. Form and Foundation.</p> <p>13 Go ahead, sir.</p> <p>14 THE WITNESS: Correct. And when I do -- when I</p> <p>15 -- I -- I -- I will admit I -- I was a little taken</p> <p>16 back by this when I didn't review this part, that</p> <p>17 when Demetrius Johnson gave this information to his</p> <p>18 attorney and, you know, the attorney, they basically</p> <p>19 said, "Well, we need evidence." We need the</p> <p>20 whatever. If there was any indication that Bryan</p> <p>21 Johns was the offender in this case, I would hope</p> <p>22 that Ms. Gubin and Ms. Miller would have exercised</p> <p>23 whatever power they could to bring Bryan Johns in to</p> <p>24 have the public defender investigator speak to this</p> <p>25 individual. But then showing me that going through</p>	<p style="text-align: right;">Page 248</p> <p>1 the course of his defense, correct?</p> <p>2 MR. BRUEGGEN: Object to form.</p> <p>3 THE WITNESS: But I did review the</p> <p>4 documentation that was sent to me, and this was the</p> <p>5 documentation that I did review. So I was</p> <p>6 privileged to read this information that Demetrius</p> <p>7 Johnson gave his attorneys.</p> <p>8 BY MS. MARTINEZ:</p> <p>9 Q. Correct, correct. Yes. You read the</p> <p>10 documents. But you are not opining in this case as to</p> <p>11 what he might have known and what him and his attorneys</p> <p>12 may have done with that information, correct?</p> <p>13 A. Correct.</p> <p>14 MR. BRUEGGEN: Object to form.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. Okay. Thank you, sir. On Paragraph 23, the</p> <p>17 second full paragraph, I'll give you a second to get</p> <p>18 there.</p> <p>19 A. Page 23?</p> <p>20 Q. Yeah.</p> <p>21 A. You said "paragraph." Paragraph.</p> <p>22 Q. Oh, apologies, sir. Yes. Page 23, the second</p> <p>23 full paragraph.</p> <p>24 A. Okay. I'm on the second full paragraph.</p> <p>25 Q. Okay, perfect. So you state, and this is in</p>
<p style="text-align: right;">Page 247</p> <p>1 the case from the very beginning, when Bryan Johns</p> <p>2 was brought in, one 14-year-old, Aby Gonzalez,</p> <p>3 identified Bryan Johns again. They reran the</p> <p>4 lineup, did not pick anybody out. He was released</p> <p>5 for continuing investigation. Found another suspect,</p> <p>6 Demetrius Johnson. So let's fast forward to where</p> <p>7 this information, this jailhouse confession or</p> <p>8 whatever you want to call it, was given. That if</p> <p>9 there was any truth to it, and there was anything</p> <p>10 that the attorneys would have did or could have</p> <p>11 done, I would have expected that they would have</p> <p>12 acted on it. But nothing was done. So that means,</p> <p>13 in my opinion, that even Demetrius Johnson's own</p> <p>14 attorneys, own investigators, didn't take this as</p> <p>15 merit that this was a true statement.</p> <p>16 BY MS. MARTINEZ:</p> <p>17 Q. I believe we've already discussed this, but</p> <p>18 just for clarification, your report does not opine on</p> <p>19 criminal defense strategies, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Thank you, sir. And relatedly, in your</p> <p>22 report, you're not opining as to what the plaintiff or -</p> <p>23 - I'll strike that, please. In this case, you're not</p> <p>24 opining as to what Mr. Johnson or his attorneys might</p> <p>25 have known or not known about the investigation during</p>	<p style="text-align: right;">Page 249</p> <p>1 reference to Sergeant Healy, quote, "His job as a</p> <p>2 supervisor was to ensure that the investigators had</p> <p>3 whatever resources they needed to aid them in the case.</p> <p>4 A supervisor's role could also include case</p> <p>5 coordination. It typically offered guidance and</p> <p>6 expertise to the investigators. A supervisor will</p> <p>7 generally check in to see how the investigation is</p> <p>8 proceeding but will usually keep a hands-off approach</p> <p>9 and allow the detectives to investigate the case." Do</p> <p>10 you see that, sir?</p> <p>11 A. I do.</p> <p>12 Q. Okay. In your opinion, is this the full</p> <p>13 extent of a supervisor's role in a homicide</p> <p>14 investigation?</p> <p>15 MR. BRUEGGEN: Object to form.</p> <p>16 THE WITNESS: It is not their full role, but</p> <p>17 again, based on my experience as a sergeant, I went</p> <p>18 from being a detective to a sergeant after 11 years,</p> <p>19 which I changed roles, so it is partially the job of</p> <p>20 the sergeant, the supervisor, to get this to the</p> <p>21 detectives, to give them support, to get whatever</p> <p>22 they need for the investigation. Again, this isn't</p> <p>23 the only role of a sergeant. But again, when you're</p> <p>24 a supervisor, you do have your detectives who are</p> <p>25 basically your feet on the ground investigating</p>

<p style="text-align: right;">Page 250</p> <p>1 these cases.</p> <p>2 BY MS. MARTINEZ:</p> <p>3 Q. All right. In your experience -- or strike</p> <p>4 that, please. As a supervisor, in your supervisory</p> <p>5 capacity, did you want to be sure that you laid eyes on</p> <p>6 all the reports that you were going to sign off on?</p> <p>7 A. So me as a supervisor, when the reports did</p> <p>8 come to me, I did read the reports. I checked for</p> <p>9 grammar. I checked for misspelling. I made sure all</p> <p>10 the boxes were checked. I made sure that the reports</p> <p>11 were basically in good condition to come to me. And</p> <p>12 then once that was done, we would get that up to</p> <p>13 records. And then once the state's attorney wanted the</p> <p>14 files, we would get the files over to the state's</p> <p>15 attorney's office.</p> <p>16 Q. Okay. And would it be -- would it be fair to</p> <p>17 say that this paragraph is the only opinion in your</p> <p>18 report that you give about the role of a supervisor in</p> <p>19 investigating a homicide?</p> <p>20 A. No. This paragraph is my opinion on what</p> <p>21 Sergeant Healy did through this investigation.</p> <p>22 Q. Okay. And then on Page 24, the full --</p> <p>23 apologies, first full paragraph. Yes. The first full</p> <p>24 paragraph that starts, "The investigatory actions." And</p> <p>25 this is the part where you're talking about Defendant</p>	<p style="text-align: right;">Page 252</p> <p>1 is that I believe they took this investigation, which</p> <p>2 through my experience for even going back as a patrol</p> <p>3 officer for 28 years and also cross-training as a</p> <p>4 fireman coming up the chaotic scenes, that it -- it's --</p> <p>5 it's -- it's crazy when you pull up the things. I</p> <p>6 believe they stayed focused. I believe they</p> <p>7 investigated thoroughly. I believe they followed the</p> <p>8 evidence. And I believe that they followed the evidence</p> <p>9 and they got the right suspect and they presented their</p> <p>10 case to Felony Review. And then Felony Review did what</p> <p>11 they have to do to bring it to court, whether to Judge</p> <p>12 and/or jury.</p> <p>13 Q. Two follow-up questions. When you say you</p> <p>14 believe they found the right suspect, are you stating</p> <p>15 that you believe Mr. Johnson is guilty of what he was</p> <p>16 charged with?</p> <p>17 MR. BRUEGGEN: Objection. Asked and answered.</p> <p>18 Go ahead, sir.</p> <p>19 THE WITNESS: No. As an officer for 28 years,</p> <p>20 that's not my job to say if a person is guilty or</p> <p>21 innocent. My job is, as an officer and slash</p> <p>22 detective and supervisor, that we take the</p> <p>23 investigation. We follow the evidence. We talk to</p> <p>24 Felony Review if we have enough to charge the</p> <p>25 individual. Then we charge the individual, turn</p>
<p style="text-align: right;">Page 251</p> <p>1 Halverson. Let me know when you get there.</p> <p>2 A. Okay. I see that.</p> <p>3 Q. You state that, quote, "Investigatory actions</p> <p>4 in which he was involved are documented fully and show</p> <p>5 how the investigation proceeded properly and</p> <p>6 thoroughly." Do you see that, sir?</p> <p>7 A. I do.</p> <p>8 Q. Can you please tell me the factual basis for</p> <p>9 this claim?</p> <p>10 A. Well, reviewing the documents that I reviewed,</p> <p>11 the CPD reports, I find that the -- when the</p> <p>12 investigation started, again, when they initially</p> <p>13 responded to the call on the street to when they took</p> <p>14 Bryan Johns into custody, where they did the first</p> <p>15 lineup, where they did the second lineup. They released</p> <p>16 Bryan Johns. They established another lead. They</p> <p>17 actually used Officer Daley again, who was a proven tech</p> <p>18 officer in the 14th District for nine years, who knew</p> <p>19 basically the players in that district. He was able to</p> <p>20 provide a picture due to the fact that another person</p> <p>21 looking at a photo basically said that this individual</p> <p>22 here looks like the basic -- the -- basically the</p> <p>23 suspect. So we go on. They form another -- they form</p> <p>24 another suspect. They do lineups. Three people pick</p> <p>25 Demetrius Johnson out of a lineup. So yes, my opinion</p>	<p style="text-align: right;">Page 253</p> <p>1 everything over into the Court system. And then</p> <p>2 again, that's Judge or jury to decide. We do never</p> <p>3 -- I would never through my whole career ever say if</p> <p>4 a person is guilty or innocent. My job is -- is</p> <p>5 just to get that from basically from A, do my</p> <p>6 investigation, to Felony Review to the Court system.</p> <p>7 BY MS. MARTINEZ:</p> <p>8 Q. Okay. And then my second follow-up question</p> <p>9 is, what is the factual basis for the first half of that</p> <p>10 statement? So I'll reread your statement. Quote, "The</p> <p>11 investigatory actions in which Detective Halverson were</p> <p>12 involved are documented fully and show how the</p> <p>13 investigation proceeded properly and thoroughly." So my</p> <p>14 question is, what is the factual basis for your opinion</p> <p>15 that the investigative actions of Defendant Halverson</p> <p>16 are documented fully when we've discussed at length that</p> <p>17 there are quite a few missing documents?</p> <p>18 A. There are missing documents. I -- I will</p> <p>19 agree to that. But again, I'm taking -- I'm taking my</p> <p>20 training. I'm taking my experience, not only with</p> <p>21 Rosemont with the Major Case Assistance Team, which</p> <p>22 again for 17 years, and I look at how this case started</p> <p>23 at the very beginning. Form suspects, I can go through</p> <p>24 that whole thing. They brought the suspect to Felony</p> <p>25 Review. Felony Review approved charges, brought it to</p>



<p style="text-align: right;">Page 254</p> <p>1 the Court system, and Demetrius Johnson was given his 2 opportunity in court. And that's where the judge did 3 whatever the judge was -- had to do after he reviewed 4 the case.</p> <p>5 MS. MARTINEZ: Okay. Thank you, sir. So David 6 and Theresa -- are the parties okay if I take maybe 7 ten-minutes, just to -- a quick break to go through 8 my notes, see if I have any final questions?</p> <p>9 MR. BRUEGGEN: Yeah, that's fine. I'm -- are 10 we getting close to the end basically, or near the 11 end?</p> <p>12 MS. MARTINEZ: Yeah.</p> <p>13 MR. BRUEGGEN: Okay.</p> <p>14 MS. MARTINEZ: Yes.</p> <p>15 MR. BRUEGGEN: Yeah, that's fine.</p> <p>16 MS. MARTINEZ: I'm just going to go through and 17 see if there's any follow-up or any additional 18 questions I have.</p> <p>19 MR. BRUEGGEN: Sounds good. Thanks.</p> <p>20 MS. MARTINEZ: Okay, thank you. So we'll meet 21 back at 4:42?</p> <p>22 MR. BRUEGGEN: Sounds good.</p> <p>23 MS. MARTINEZ: Okay, great.</p> <p>24 THE REPORTER: Okay. The time is 4:32 p.m. 25 Central. We're off record.</p>	<p style="text-align: right;">Page 256</p> <p>1 <b>when you came across contradicting facts in the record,</b> 2 <b>you would look at all the documents and see which was</b> 3 <b>more credible with your experience?</b></p> <p>4 MR. BRUEGGEN: Objection. Form.</p> <p>5 THE WITNESS: So if I did come across 6 contradicting documentation, I would go through the 7 file. If it was something that had to do with a 8 different part of the file, I would go to that file. 9 I would reread that. I'd have to come back to it 10 and I would form my opinion. I mean, when you -- 11 when you talk about an investigation and especially 12 one of this magnitude where there's two individuals 13 that were shot, you get the broadcast that 14 attackers, you have detectives that have to go out 15 there, they have to gather information. There's -- 16 investigations, there's all kinds of contradicting 17 information, but that's where you have to take your 18 training, your experience, and you have to find out 19 and come to the truth and come to basically the 20 investigation and where the evidence leads you. I 21 can't stress enough about where the evidence leads 22 you, where the information takes you. If you don't 23 have the information and the evidence, you -- you -- 24 you're -- you're not going to solve the 25 investigation. And again, no two investigations are</p>
<p style="text-align: right;">Page 255</p> <p>1 (OFF THE RECORD)</p> <p>2 THE REPORTER: We are back on record for the 3 deposition of Ronald Muich being conducted by video 4 conference. My name is Kyra Tate. Today is 5 November 15, 2023. The time is 4:48 p.m. Central.</p> <p>6 BY MS. MARTINEZ:</p> <p>7 <b>Q. I do have a few more questions for you,</b> 8 <b>Mr. Muich. The first is in writing your report. How</b> 9 <b>did you resolve disputes between contradicting facts?</b></p> <p>10 A. So basically reviewed all the documentation. I 11 took all of my training, all of my experience on the 12 street as a detective -- on the patrol officer 13 detective, also being on a task force. And again, I 14 read all the documentation and I formulated my opinion.</p> <p>15 <b>Q. Okay. Is it then your testimony that when you</b> 16 <b>encountered contradicting facts in the record, you used</b> 17 <b>your experience to determine which you believed to be</b> 18 <b>true?</b></p> <p>19 MR. BRUEGGEN: Objection. Form.</p> <p>20 THE WITNESS: I had to take everything that I 21 read, the facts of the case, the investigative part 22 of the case, the evidence of the case. And that's 23 how I form my opinion.</p> <p>24 BY MS. MARTINEZ:</p> <p>25 <b>Q. Okay. So would it be fair to say then that</b></p>	<p style="text-align: right;">Page 257</p> <p>1 alike. You show me an investigation to where 2 something's not contradicting in a report or a 3 testimony or a deposition. Like it just -- it -- 4 I've never seen it before in my 28 years of law 5 enforcement and especially my 17 years on the task 6 force team, where you would come to complex 7 investigations. You know, where you would have a 8 double, a triple, a quadruple homicide.</p> <p>9 So I guess to answer your question, you 10 come to those contradicting parts in the 11 investigation in the report and you have to follow 12 the evidence, see where the investigation takes you 13 and do whatever you have to do. You have to follow 14 the -- the evidence. I think that's the most 15 important part that I'm going to say is you have to 16 follow the evidence. And when you say contradicting. 17 Again, you know, there has to be a decision made on 18 an investigator's end. The investigator just can't 19 come to a contradicting part in the investigation or 20 report and just drop it and say, well, I can't do 21 this no more. There's a contradicting, you know, 22 interview. Well, then I guess you have to go 23 further. You might have to talk to a half a dozen 24 more people. Might have to bring more witnesses in. 25 You might have to corroborate this contradicting</p>

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1 story. So again, I don't want to keep saying all  
2 investigate -- we know that all investigations are  
3 not alike. But again, I couldn't give you just a  
4 very simple answer about contradicting.

5 BY MS. MARTINEZ:

6 Q. Okay. Would it be fair to say then when you  
7 were following the evidence as you put it in this case  
8 and where the evidence might conflict, you dealt with  
9 that on a case by case basis?

10 MR. BRUEGGEN: Object to form.

11 THE WITNESS: So I dealt with it with this case  
12 when I came to something. And again, if you can  
13 point out to me something that you would deem  
14 contradicting, we could look at that. But again, I  
15 reviewed the case and when I looked at the  
16 investigation and followed the evidence, I feel  
17 that, again, the detectives, the officer, the  
18 detectives did a good job, you know, in going  
19 through this investigation, following the evidence  
20 and eventually being able to bring a case to the  
21 State's Attorney.

22 BY MS. MARTINEZ:

23 Q. Okay. My next question, would you agree that  
24 it's generally accepted police practice to follow up on  
25 credible leads?

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1 A. I'm sorry, you broke up at the end. Did --  
2 did you say credible leads?

3 Q. Yes, sir.

4 A. If you could repeat the question --

5 Q. Okay, yes --

6 A. -- because you'd break up a little bit --

7 Q. -- I'll repeat the question. Would you agree  
8 that it's generally accepted police practice to follow  
9 up on credible leads?

10 A. Yes.

11 Q. Okay. And in your experience, would that  
12 include credible leads relating to alternative suspects?

13 A. If that's where the investigation and the  
14 evidence would lead in an investigation, yes. And I  
15 believe that -- that actually was in this case. There  
16 was one suspect that was taken into custody and then the  
17 investigation and the evidence led to another suspect.  
18 Instead of just having tunnel vision at the very  
19 beginning of June 12, 1991, and just focusing on the one  
20 suspect they brought in having tunnel vision and trying  
21 to bring that suspect, that the offender to felony  
22 review, charging that offender and moving on to your  
23 next case.

24 Q. So if the defendant officers in this case were  
25 made aware of another alternative suspect besides Mr.

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1 Johnson and Mr. Johnson, would you expect them to  
2 investigate that person?

3 MR. BRUEGGEN: Object to form, speculation.

4 THE WITNESS: So in this case, in the  
5 documentation that I reviewed, I did not find that  
6 besides Brian Johnson, Demetrius Johnson, that there  
7 was any other subject that was possibly looked at in  
8 this case.

9 BY MS. MARTINEZ:

10 Q. I'm very quickly going to share my screen.  
11 This is Exhibit 5 on Page 23 of Mr. Tiderington's  
12 report, which you testified that you reviewed. And I'll  
13 give you a moment to get there.

14 A. Okay. I'm there.

15 Q. Okay. So Mr. Tiderington notes, "On June 29,  
16 1991, CPD Officer Cresco report that he arrested an  
17 individual identified as Robert Weeks and determined  
18 that Weeks fit the description of the suspect wanted for  
19 the Fred homicide. Cresco also documented that received  
20 a phone call and spoke with a citizen identified Juan  
21 Lopez. According to Hernandez's Police report, Lopez  
22 told the officer that he, "Witnessed the homicide that  
23 occurred on 12, June '91 at 2311 West North." He  
24 followed the offender to a building located at Le Moyne  
25 and Western above a tire shop. Also noted by these

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1 informants was the fact that Weeks is a member of the  
2 Spanish Cobra Street Gang and that he has a distinctive  
3 tattoo of a pitchfork and a large cobra snake on his  
4 right arm. RO's on today's date contacted Area 5  
5 Violent Crimes. Detective Halverson arrived at 14th  
6 District at which time the investigation was turned over  
7 to him." Do you see that, sir?

8 A. I do.

9 Q. Okay. So and you reviewed this report,  
10 correct?

11 A. I did.

12 Q. Okay. If assuming that that is true, the  
13 evidence is correct and someone came forward identifying  
14 Robert Weeks as a potential suspect in this shooting.  
15 Would you expect the investigating officers to  
16 investigate into that lead?

17 MR. BRUEGGEN: Object to form. Go ahead.

18 THE WITNESS: Well, this report was in the CPD  
19 file. There was no indication that he was the  
20 offender in a homicide. And if I'm correct, I think  
21 Mr. Tiderington does leave out that he was arrested  
22 for an assault and that's how he was brought into  
23 the station. There's nothing that I have read about,  
24 besides a phone call from a Juan Lopez, I don't know  
25 what that phone call entailed. To me, it was turned

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1 over to Detective Halverson who was brought on to  
2 this case. I know he wasn't there the first night,  
3 but he came on later on. I believe the first time I  
4 saw his name on a report was June 29th. So he came  
5 on between the 12th and the 29th and started with  
6 this case. And to me, being a detective/supervisor,  
7 if this information was brought to me, I would've  
8 looked into it. Again, we don't know what the  
9 outcome was this because we all can agree that  
10 there's missing documentation. So maybe Detective  
11 Halverson did do a report. And again, we can't get  
12 those answers because Detective Halverson is -- is  
13 deceased. So I understand what Mr. Tiderington is  
14 trying to say that there's a third suspect here, but  
15 I have to disagree with him that besides getting a  
16 phone call and we really don't know what else that  
17 phone call entailed, and we don't know what  
18 Detective Halverson's follow-up was that Mr. Weeks  
19 would be a credible suspect.

20 BY MS. MARTINEZ:

21 Q. You predicted my next question. In your  
22 review of the materials and writing your report, did you  
23 find anything in the record that would show that the  
24 investigating officers followed up on this lead pointing  
25 to Mr. Weeks?

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1 A. There's nothing that I saw in the report. But  
2 again, we do have missing documentation, so I don't know  
3 if a supplemental report was done or, you know, it  
4 could've went as far as that the detective knew a Juan  
5 Lopez and Mr. Juan Lopez was not credible with  
6 information he's given detectives officers. I mean,  
7 hypothetically, we can even go there. So we just don't  
8 know without actually reading the documentation. I  
9 cannot answer Mister -- you know, Mr. Week's involvement  
10 in this, except what I understand again, what  
11 Mr. Tiderington wrote and what Mr. Lopez, you know, did  
12 with his phone call.

13 Q. In your report, you do not opine on the  
14 propriety of having multiple witnesses together at the  
15 State Attorney's office as they prepare for trial; is  
16 that correct?

17 A. I do not.

18 Q. Okay. Thank you, sir. I just have two more -  
19 - two more things I'd like to hit on and then we can  
20 wrap up this long day. The first is that I have a  
21 couple of clarifying questions regarding your  
22 professional experience. So over the span of the  
23 entirety of your career. So when you were first brought  
24 on full-time in 1995, up until your retirement of June  
25 of 2023, how many homicide investigations would you say

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1 you participated in?

2 A. And when you say participated, would you say  
3 as a lead investigator/investigator or supervisor?

4 Q. Let's break them out into buckets. So first,  
5 I'll say strictly for RSPD, how many would you say you  
6 were involved in?

7 A. So I was a lead investigator on two homicides  
8 and I was a supervisor, I believe on, and if you want  
9 the exact number, it was four or five, but I would have  
10 to look through my documentation.

11 Q. Is your -- actually, in your report, I think  
12 you detail the cases that you served as either the lead  
13 or supervisor on. Is that list up to date?

14 A. It is up to date. Yes, ma'am.

15 Q. Okay. And is that --

16 A. So it was four. I apologize for interrupting.  
17 It was four as a supervisor for Rosemont.

18 Q. Okay. And are there any other cases from the  
19 time that you were at RSPD that you served as either a  
20 lead investigator or supervised the entire investigation  
21 other than those six?

22 A. Yes.

23 Q. Okay. How many?

24 A. So if I'm getting your question correct. Are  
25 you asking me, because I was a detective from say end of

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1 2004 to '15. And when I took on whatever case it would  
2 be, you're not talking just the homicide. You're  
3 talking any case in general? If I were --

4 Q. Apologies. No. Apologies. My question is,  
5 and I'm sorry, I didn't mean to cut you off, sir. My  
6 question is outside of the six that you note in your  
7 report at any point during your time at RSPD, this is  
8 not including MCAT, did you serve as either the lead  
9 investigator or supervise investigator -- supervisory  
10 investigator for a homicide investigation?

11 A. No, just the ones that I've listed that -- on  
12 the report that you have in front of you.

13 Q. Okay. Thank you. I apologize. I think I  
14 worded that weird. Okay. And now, actually two of  
15 these -- two of the six that you go through, I believe  
16 you put dates in your report. Okay, perfect. So I just  
17 want to confirm with you the two that you were the lead  
18 investigator on, the first being the State of Illinois  
19 v. Kenneth Sharples, that's March of 2005?

20 A. Correct. That was four months after I came  
21 into the Investigations Bureau.

22 Q. Okay. And then the second one is from August  
23 of 2005?

24 A. Correct.

25 Q. Do you know the name of the case or the name

<p style="text-align: right;">Page 266</p> <p>1 of the victim? I only see, "Dismembered body."</p> <p>2 A. I think the individual's last name was Lau,</p> <p>3 L-A-U. They were foreign exchange students from Beijing</p> <p>4 and they were at Purdue University.</p> <p>5 Q. Okay. And then for the four that you</p> <p>6 supervised, the first is the State of Illinois v. Cesar</p> <p>7 Garay? I'm not sure if I pronounced that correctly.</p> <p>8 A. Garay.</p> <p>9 Q. Okay. And is that from January of 2015?</p> <p>10 A. Correct.</p> <p>11 Q. The second one being Kenneka Jenkins, is that</p> <p>12 from September of 2017?</p> <p>13 A. Correct. That's Kenneka Jenkins. And that's</p> <p>14 the young lady that was found in the freezer.</p> <p>15 Q. Okay. The third one is the State of Illinois</p> <p>16 verse Gerard Delgado Calderon. And is that --</p> <p>17 A. Correct. And that is -- that is still</p> <p>18 pending.</p> <p>19 Q. Okay. And that was from December of 2019?</p> <p>20 A. Correct.</p> <p>21 Q. And then the final one is the State of</p> <p>22 Illinois verse Jose Matias?</p> <p>23 A. Correct.</p> <p>24 Q. And that's from March of 2022?</p> <p>25 A. Correct. And that is also pending.</p>	<p style="text-align: right;">Page 268</p> <p>1 go look for potential witnesses. Basically, whatever</p> <p>2 Schaumburg needed us to do in an assist, we would do it.</p> <p>3 Q. Okay. So is it fair to say that the</p> <p>4 department of where the crime happened would ask MCAT to</p> <p>5 perform discrete tasks as part of the investigation?</p> <p>6 MR. BRUEGGEN: Object to form. Go ahead, sir.</p> <p>7 THE WITNESS: They would ask any tasks that we</p> <p>8 needed to do because, again, when you go to</p> <p>9 different departments, sometimes you're manpower.</p> <p>10 Again, Schaumburg had a bigger detective division</p> <p>11 with attack unit, but then you can go to, like, a</p> <p>12 Mount Prospect, and they would only have two</p> <p>13 detectives. So it would just really depend on the</p> <p>14 situation, again, investigation to investigation.</p> <p>15 BY MS. MARTINEZ:</p> <p>16 Q. Okay. And apologies if I misunderstood your</p> <p>17 previous testimony, but when -- during your time as a</p> <p>18 member of MCAT, how many distinct homicide</p> <p>19 investigations did you assist with?</p> <p>20 A. Again, it would be just an estimate number. I</p> <p>21 would say between 30 and 40 throughout my career with</p> <p>22 MCAT. It could be less. It could be more. I don't</p> <p>23 know.</p> <p>24 Q. Okay. And for any of those investigations,</p> <p>25 were you assigned as lead?</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. Okay. I'm just making sure I've got that all</p> <p>2 taken down. And now for your participation in MCAT. So</p> <p>3 you talked about how MCAT, I believe you stated that</p> <p>4 MCAT participated in 30 to 40 homicide investigations?</p> <p>5 A. I assisted in 30 to 40 homicide --</p> <p>6 Q. Assisted.</p> <p>7 A. Investigative with various towns. I believe</p> <p>8 it's 21 surrounding Northwest Suburban towns. And</p> <p>9 again, 30 to 40 is just a complete estimate. I don't</p> <p>10 have an exact number. I never kept track.</p> <p>11 Q. Okay. And when you say participated in, what</p> <p>12 does that mean for the purposes of MCAT?</p> <p>13 A. So when a town would have a, let's just say</p> <p>14 and again, I'll just use Schaumburg as an example. If</p> <p>15 Schaumburg had a double homicide and they had no</p> <p>16 suspects, no offender in custody, they would basically</p> <p>17 activate MCAT. MCAT would come out with investigators,</p> <p>18 including myself. We would report to the director of</p> <p>19 MCAT who would be on scene and also report with the</p> <p>20 commander of Schaumburg. We'd work along with their</p> <p>21 detectives. So basically we would not come to their</p> <p>22 town to take over the investigation. We would just come</p> <p>23 in to assist. So basically, if they had interviews,</p> <p>24 they would do one of their detectives along with an MCAT</p> <p>25 guy, we would go canvas the area, do door knocks. We'd</p>	<p style="text-align: right;">Page 269</p> <p>1 A. No.</p> <p>2 Q. Okay. Did -- this might be a basic question.</p> <p>3 Did MCAT assign leads for their investigations or did</p> <p>4 they defer to the local municipality?</p> <p>5 A. Local municipality would always be the lead in</p> <p>6 the case. We would just be the assist.</p> <p>7 Q. Okay. Thank you. And were you assigned to</p> <p>8 homicide investigations from the very first year that</p> <p>9 you joined MCAT?</p> <p>10 A. Yes, I was.</p> <p>11 Q. Okay. Perfect. And for the -- apologies, I'm</p> <p>12 backtracking slightly -- for the two cases at RSPD that</p> <p>13 you were the lead investigator on, did either one of</p> <p>14 them involve eyewitness identifications? And feel free</p> <p>15 to --</p> <p>16 A. Sorry, I got to --</p> <p>17 Q. Oh, yeah. Feel -- please, feel free to look</p> <p>18 through your report.</p> <p>19 MR. BRUEGGEN: A4.</p> <p>20 BY MS. MARTINEZ:</p> <p>21 Q. Yes, A4. Thank you.</p> <p>22 A. So -- yes, the first case, State of Illinois</p> <p>23 v. Kenneth Sharples, there was -- I believe we did</p> <p>24 several lineups on that one. And then the dismembered</p> <p>25 body was a little bit different because that was the</p>

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1 body that was found dismembered in one of our parking  
2 garages, so there were no lineups or anything. But that  
3 investigation led us to Lafayette, Indiana, and then  
4 ultimately to Beijing.

5 **Q. Okay. Did any of the four homicide**  
6 **investigations that you were the supervisor on involve**  
7 **eyewitness identifications?**

8 A. So the State of Illinois v. Cesar Garay, I  
9 would have to look at that file to see if there were  
10 lineups. I don't recall at this time. Kenneka Jenkins,  
11 again, was a death investigation. That was the young  
12 lady that was found in the freezer. So that case  
13 basically was 70 something interviews with that. That  
14 was the one I talked about with at least a dozen  
15 juveniles. State of Illinois v. Gerard Delgado. Again,  
16 that was a case that we worked with the Des Plaines  
17 because the body was actually found in a -- a Christmas  
18 tree box next to a dumpster in Des Plaines, but she was  
19 actually murdered in Rosemont. So that was a -- a case  
20 that we worked with Des Plaines. I'd have to look to  
21 see if there was lineups done with those. And then the  
22 State of Illinois v. Jose Matias, that was actually a  
23 shooting at our Chicago Fashion Outlet Mall. And I  
24 believe that there -- I do not believe there were any  
25 lineups in that. But again, that's just a guess on

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1 that. I would have to go back to that file and look at  
2 it.

3 **Q. Fair. Okay. And then my last set of**  
4 **questions as to these six cases, did any of the six**  
5 **involve multiple suspects?**

6 A. So the only one that started out, and we  
7 talked about this earlier when I talked about the  
8 attackers, the Matias case, the mall shooting, that's  
9 the one where we had to formulate. When we got the  
10 call, we believed and I believed it was multiple  
11 shooters, but it turned out to be just one shooting, an  
12 isolated incident. So I guess your question -- the  
13 answer to your question is, no, there were not multiple  
14 offenders in these cases.

15 **Q. Okay. Thank you for that, sir. And then my**  
16 **second line of question related to your professional**  
17 **experience is just getting a little more clarification**  
18 **on your trainings. Were you -- when were you first**  
19 **trained in homicide investigations?**

20 A. So in January 2005, when I attended the 4-week  
21 criminal investigation, they did touch on homicides, but  
22 it actually wasn't a homicide training, but they did  
23 touch on it. They also touched on it in April 2005, at  
24 the investigation at the Northeast Multi-Regional  
25 Training facility. June 2005, is when I attended the

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1 advanced homicide investigation training at Northwestern  
2 University Center for Public Safety. This is where they  
3 -- they dove more into the approaches to homicide  
4 investigations, child death investigations,  
5 interrogation techniques for homicide suspects,  
6 drug-induced homicides. So we -- we talked -- we -- we  
7 trained more in a homicide with that training. January  
8 2008, I attended a death on arrival homicide  
9 investigation at Suburban Law Enforcement Academy.  
10 Basically, this was evidence collection, autopsy,  
11 suspect interview, trial testimonies.

12 And again, they -- they touched on the  
13 homicide investigations also. And then also, being a  
14 lead homicide investigator in the state of Illinois, you  
15 had to keep up your certification, which, again, I  
16 believe I would have to double check if you needed the  
17 exact numbers, but I believe you needed to maintain 100  
18 hours of some sort of homicide training in a four year  
19 period to keep your certification. And if you were  
20 unable to keep your certification, you wouldn't -- if  
21 you did not have a certification in homicide, you would  
22 not be able to be a lead investigator -- a lead  
23 investigator on a homicide investigation.

24 **Q. Okay. Thank you for that clarification. Do**  
25 **you know what year you became certified?**

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1 A. I believe -- so the way my understanding was  
2 with the way it happened, once you start your process as  
3 a lead investigator, the state of Illinois acknowledges  
4 you being a lead investigator as long as you keep up  
5 with your hours. Now, again, my understanding was --  
6 let's say, when I started in 2005, and I started going  
7 to trainings. If, say in 2009 or 2010, the state  
8 realized that I didn't have my certification, then I  
9 would run into problems with being a lead investigator,  
10 if that makes sense. So they almost give you that  
11 window. They wouldn't make you go through the four  
12 years, become a lead investigator, and then you could be  
13 a lead investigator on a homicide. They'd almost give  
14 you that grandfather -- that grandfather clause, that  
15 window to -- to be a lead investigator.

16 **Q. Okay. I just want to make sure I'm**  
17 **understanding. So you're saying that when you were**  
18 **first made a lead investigator on the Kenneth Sharples**  
19 **case in March 2005, that is when you were given the**  
20 **certification to --**

21 A. That's when I --

22 **Q. -- to be a lead investigator? Oh, apologies.**

23 A. That's when I started the process of becoming  
24 --

25 **Q. Started the -- okay.**



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1 A. -- a lead -- yeah. So I had to keep  
2 documentation of the trainings that I went to. And as  
3 long as I was able to prove that I had 100 hours, and I  
4 believe, I would have to look again, in four years, then  
5 your certification would -- would -- would be fine and  
6 you would start the process over again.

7 Q. Okay. And when you say, start the process,  
8 did you fill out an application?

9 A. Yes, with the state of Illinois.

10 Q. Okay. That's the piece I was missing. Okay.  
11 Perfect. That makes sense. Are you still certified to  
12 this day?

13 A. Well, I'm -- I guess I'm certified on paper  
14 with the state of Illinois, but I don't know what  
15 homicide I would go investigate because I'm not employed  
16 anymore. I'm retired and I'm not with MCAT anymore, so  
17 I don't think it would look good if I went out and  
18 investigated homicides.

19 Q. Yeah. Hopefully, there's none you get called  
20 out to. Okay. And again, just from my understanding,  
21 so if you were still qualified on paper, does that mean  
22 that, every four years from 2005, that you met this  
23 requirement and filed all of your certifications?

24 A. Yes.

25 Q. Okay. So 2009, 2013, and then -- sorry,

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1 apologies. Yes. Can you give verbal answers?

2 A. Correct.

3 Q. Okay. In 2017?

4 A. Yeah, and there were times we would send the  
5 paperwork in early to the state, so they would accept --  
6 they would accept early registration. As long as you  
7 were up to date with your hours, we would send it in.

8 Q. Okay. And would serving as a supervisor on a  
9 homicide investigation count toward that 100 hours?

10 A. That question I never asked because I would  
11 still attend training, so I never asked that question.  
12 But if I had to guess, I don't think so because that's  
13 an active investigation.

14 Q. Okay. I suppose my follow-up question then is  
15 from my understanding and from your previous testimony,  
16 all of your trainings are in your report with the  
17 exception of the one that you told me about earlier,  
18 that I believe you said was in 2009 or 2010. Are there  
19 other trainings you attended that would meet that 100  
20 hour requirements for 2013 to 2017?

21 A. Yeah. So every year, usually in October, they  
22 would have a -- a multi-region homicide conference, and  
23 that was usually in Itasca. And that was a three day --  
24 three or four day training. And we would attend the --  
25 the training throughout those three or four days, which

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1 would count towards our lead investigator.

2 Q. Okay. And would you say you went to this  
3 training every year?

4 A. I went to that training every year.

5 Q. Okay. And what were some of the specific  
6 practices that they would put on?

7 A. Again, that would be -- they would be, like,  
8 breakout sessions. I mean, they had the detectives from  
9 the Sandy Hook incident. They had the investigators  
10 from Columbine. One time they had the Gacy retired  
11 investigators come in and talk. They would do evidence  
12 clinics. They would do interview. So it was basically  
13 anything involving homicide. But again, it would be a  
14 breakout session, whichever you felt like you wanted to  
15 go to. You could just kind of go in, scan in, listen to  
16 their presentation. Two hours later, go to another  
17 presentation. So you just kind of bounced around the  
18 whole seminar.

19 Q. Okay. And to the best of your knowledge,  
20 what's the first year you went to this conference?

21 A. It would be a total guess if I would even --  
22 I'm -- I'm sure -- I'm sure it was pretty shortly after  
23 I became a detective because it was a big deal for the  
24 detectives to go to it.

25 Q. Okay.

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1 A. So I'm -- I -- I assure -- or I'm pretty sure  
2 that it was pretty -- if it wasn't that first year, it  
3 was probably the second year.

4 Q. Okay. So you'd say maybe 1996 at the latest?

5 A. No. So I became a detective December 2004.

6 Q. Oh, apologies, sir. Okay.

7 A. And then -- so I might've went to the seminar  
8 in Itasca 2005 or 2006. I don't know.

9 Q. Okay. And do you remember the most recent one  
10 you went to?

11 A. I think they canceled due to Covid. I'm not  
12 sure if they canceled one or two years, so it might've  
13 been the previous year, maybe '19 --

14 Q. Okay.

15 A. -- before they canceled with Covid.

16 Q. Okay.

17 A. And I didn't -- and I did not attend the one  
18 in '22 only because I knew I was retiring.

19 Q. Okay.

20 A. And I knew I had enough hours and the  
21 department, I believe, wasn't going to send me to the --  
22 to the training just due to --

23 Q. Okay.

24 A. -- monetary.

25 Q. Okay. And at these conferences, would it be

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1 fair to say that the trainings were regarding best  
2 practices at the time?  
3 A. Yes, Illinois best practices.  
4 Q. Okay. And they would usually be current, is  
5 that a fair statement? Like, current best practices,  
6 not what was best practice in 1975?  
7 A. No, they would be current.  
8 Q. Thank you for all those explanations, sir. Let  
9 me make sure I don't have any other questions about your  
10 training. Okay. So my final question about your  
11 training is, was there any training that you went to  
12 that detailed what best practices would be in a homicide  
13 investigation in 1991?  
14 A. I can't specifically give you a training. I  
15 feel that the training that I did -- and I did do a lot  
16 of training -- I feel that I took that training in along  
17 with my experience, not only being a patrol officer,  
18 which was a good experience, but also being a detective  
19 and a supervisor. And I did apply training experience  
20 when I reviewed this case, so -- and especially looking  
21 at the investigative part of this case, the way that the  
22 detectives did go through their transition of the case,  
23 I would say that my experience helped me understand it,  
24 helped me formulate my opinion to the report that we  
25 talked about most of the day today.

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1 Q. Okay. And actual last final question related  
2 to your training. Was there any training specifically  
3 that you received that -- strike that. Strike that,  
4 please. No other questions on your trainings. And so  
5 my last set of questioning is, sir, are you aware that  
6 Defendant Guevara's 40th victim was just exonerated?  
7 A. I'm sorry, can you repeat that?  
8 MR. BRUEGGEN: Object to form.  
9 BY MS. MARTINEZ:  
10 Q. Yes.  
11 MR. BRUEGGEN: Go ahead.  
12 BY MS. MARTINEZ:  
13 Q. Are you aware that Defendant Guevara's 40th  
14 victim was just exonerated?  
15 MS. CARNEY: Objection. Form.  
16 MR. BRUEGGEN: Object to form. Argumentative.  
17 Go ahead, sir.  
18 THE WITNESS: No, I'm not.  
19 BY MS. MARTINEZ:  
20 Q. Okay. If that were true, would that be  
21 concerning to you?  
22 MS. CARNEY: Objection. Form.  
23 MR. BRUEGGEN: Object to form.  
24 MS. CARNEY: Foundation.  
25 MR. BRUEGGEN: Argumentative.

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1 THE WITNESS: Again, I know nothing about that.  
2 There was nothing that I reviewed in my  
3 documentation. I would have to review that  
4 documentation, and I -- I did not. I know nothing  
5 about that.  
6 BY MS. MARTINEZ:  
7 Q. Would knowing that -- or strike that, please.  
8 Does knowing that cause you to question the integrity of  
9 this investigation on behalf of Defendant Guevara?  
10 MR. BRUEGGEN: Object to form and foundation.  
11 Go ahead, sir.  
12 THE WITNESS: Well, what you're telling me, no,  
13 it doesn't.  
14 BY MS. MARTINEZ:  
15 Q. Okay. And why not?  
16 A. Again, I reviewed the documentation that was  
17 provided to me, and I went through the investigation. I  
18 went through depositions. I went through other  
19 documents, and I formed an opinion.  
20 I was looking at the case, and that's how I  
21 formed my opinion.  
22 MS. MARTINEZ: I believe that is all that I  
23 have for you, sir.  
24 MR. BRUEGGEN: Mike, Theresa, do you guys have  
25 anything?

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1 MS. CARNEY: Not right now.  
2 MR. SCHALKA: Nope.  
3 MR. BRUEGGEN: All right. I just have a  
4 couple quick areas of follow up.  
5 CROSS-EXAMINATION  
6 BY MR. BRUEGGEN:  
7 Q. So we talked about your involvement as a lead  
8 investigator at Rosemont. Other than those two cases we  
9 talked about, did you ever assist in homicide  
10 investigations while you were with Rosemont just on the  
11 Rosemont Safety Patrol?  
12 A. No, just with the -- the -- the two we talked  
13 about as the lead investigator and the supervisor, I  
14 don't recall as a patrolman if we did have any  
15 homicides. I do not believe so. And if there was, the  
16 only thing I would do is lend support as a patrol  
17 officer.  
18 Q. And then -- I'm doing that, so we got to be  
19 careful, but based on that 100 hours every four years,  
20 is it -- strike that. Based on the -- needing 100 hours  
21 of homicide training every four years to keep the  
22 Illinois certification; did I understand that correctly?  
23 A. Yes.  
24 Q. And having done it since 2004 to the present,  
25 is that -- you have over 500 hours in homicide training

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1 **investigations?**

2 A. I should have -- well, I would have to look at  
3 the numbers, but that -- that could be right. It -- it  
4 could actually be more. It's not that you just do 400  
5 hours or whatever, you're done. You keep continuing  
6 your education. Training was a huge part as being an  
7 investigator, so we continuously went the training and  
8 documented our hours and -- you know, I mean, 500 could  
9 be, or it could be more. I -- I don't know.

10 Q. And then in addition, I think we talked about  
11 your CV and it has certifications and trainings, but  
12 there's additional training that you talked about that  
13 would be these 100 hours you needed for the  
14 certification?

15 A. Yes. So I attended a five day homicide  
16 investigation at Princeton University. It was a  
17 nationally presented homicide conference. So you know,  
18 I talked about Illinois best police practices. This  
19 state touched upon nationally best police practices.  
20 They talked a lot about homicides, not only, you know,  
21 just in -- in my area, but, you know, in New York, New  
22 Jersey area. So it was a full five day advanced  
23 homicide conference. A very good conference.

24 Q. And then today there were lots of questions  
25 about your experience in training in police practices.

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1 Can you explain how your experiences in training played  
2 a role in your development of the generally accepted  
3 police practices to apply here today and answer  
4 questions about today?

5 A. Absolutely. I mean, all of my training, you  
6 know, that I had, you know, through conferences and  
7 department training and my experience, like I just told  
8 the last Counsel, everything that I have trained with,  
9 learned, experienced throughout my career, I feel that I  
10 brought it to -- looking at this report -- best police  
11 practices. Looking at this report, trying to, again,  
12 look at every angle of it. Again, my experience is  
13 huge. My training is huge, and that's how I formulated  
14 this report that we were looking at today.

15 Q. And then earlier there were some questions  
16 about the -- I think it was Ricardo Burgos and the  
17 Hispanage (phonetic). Do you remember those questions?

18 A. I do, yes.

19 Q. And you basically said it could be a typo,  
20 that -- just the word Hispanage. Well, it actually is a  
21 typo because Hispanage is not a word, but Hispanic could  
22 be a typo. Do you remember --

23 A. Yes, I do.

24 Q. -- something like that? Could it also be just  
25 incomplete and should have said a Black Hispanic?

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1 A. I have heard the term before, Black Hispanic.  
2 Q. And the only testimony under oath that we have  
3 of Ricardo Burgos from around that time is his trial  
4 testimony. Is that your recollection from reviewing the  
5 documents?

6 A. That is my recollection, yes.

7 Q. And then you touched upon documentation for  
8 detectives earlier; do you remember talking about that?

9 A. I do.

10 Q. And there was talk about detectives have to  
11 use the discretion when they document?

12 A. Yes.

13 Q. Are -- do detectives need to document all  
14 relevant information -- or strike that. Let me rephrase  
15 that. Do detectives need to document all information  
16 that is relevant to their investigation?

17 A. So again, when I use the word discretion,  
18 again, if the detective feels that -- that information  
19 is going to be relevant to the investigation, to the  
20 case, to it being brought to trial, it should be  
21 documented. My detectives would document. But again, I  
22 also gave my -- my detectives the discretion. Again, I  
23 brought up the scenario as if I was going to ask Dave a  
24 question about Ms. Doe, and David pointed that Ms. Doe  
25 lives four houses down. I don't know if that would be

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1 relevant for the information. It could be. It can't  
2 be. Again, investigations are all different. But again,  
3 if the detective deemed that it was relevant  
4 information, then I expected the detectives to put that  
5 information in there. But again, when I say discretion,  
6 I left that up to the detectives because I knew my  
7 detectives and work that they did, the reports that they  
8 wrote, so that's why I gave them that discretion.

9 Q. And I also heard that there was some reference  
10 to the reports needed to provide basically the progress  
11 or how investigation proceeded from basically start to  
12 finish; do you recall discussing that earlier?

13 A. Yes.

14 Q. And in this case, based on your review of the  
15 CP reports that you had access to, were you able to  
16 determine whether the reporting complied with that  
17 requirement to dictate what happened from start to  
18 finish?

19 A. Well, when I reviewed the documentation and  
20 was going through it all, you know, I was finding that  
21 there was some lack of information. And then going  
22 through, you know, Cook County, state attorneys' office  
23 files and public defenders' files, that's when it  
24 occurred to me that there possibly could have been  
25 missing documents. And in fact, I would have to look, I

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1 believe in the public defender's -- or Cook County state  
2 attorney's file, they make a reference of missing  
3 documents and even looking at the public defender's  
4 file, which is just a small file, it -- it just -- it --  
5 it just -- to me, it was an incomplete file. I don't  
6 know if it's missing documents in that file. I don't  
7 know. And in going to the assistant state's attorney  
8 report when he was with Demetrius Johnson, again, with  
9 my experience, when I dealt with felony review, I saw  
10 what felony review did when they started filling out  
11 their big yellow -- we call it a jacket -- their big  
12 file folder and then interviewing witnesses and asking  
13 us to bring witnesses in and just the documentation that  
14 they had. So to me, I, again, questioned if, you know,  
15 part of the state's attorney file was missing.

16 Q. And I think you explained this, but you only  
17 looked at the Johnson materials, right, materials in  
18 this case alone, right?

19 A. Oh, this case alone, yes.

20 Q. And can you tell us -- when you said that  
21 there were documents missing, can you tell us what you  
22 mean by that?

23 A. So again, when I reviewed -- when I reviewed  
24 the documentation, to me, some of it just seemed that  
25 some paperwork was incomplete. Again, I looked at the

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1 Cook County state's attorney office file where there was  
2 mention that possibly the documents were missing. Again,  
3 when I looked at that -- that note that Detective  
4 Halverson got from Kevin Sheehan to bring the file, and  
5 I believe that was November, I don't know what was in  
6 that file. I don't know if there were GPRs in that --  
7 in that file. I just don't know because the documents  
8 that I reviewed just doesn't clarify somebody's  
9 documents that, I believe, are missing.

10 Q. And then just to kind of clarify that point, I  
11 think you told us you saw some documentation by the  
12 state's attorney that they -- there were GPRs that were  
13 turned over. Did I recall that testimony correctly?

14 A. Correct. I believe that was on Page 20. Yeah,  
15 I believe I read -- I -- again, I would have to go  
16 through the report again, that there were GPRs that were  
17 -- were missing. I'm not sure exactly how many GPRs  
18 there were that were missing.

19 Q. And then when you reviewed the documentation  
20 that we have now, you did not see any GPRs?

21 A. I did not see any. Not that I can recall.

22 Q. And so they existed back in 1991, '92 when  
23 trial occurred, right?

24 A. Yes.

25 Q. And we just don't know where they are now?

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1 A. That is correct.

2 Q. You haven't been provided any information  
3 about where they are?

4 A. I have not.

5 MR. BRUEGGEN: That's all I have. Alyssa, do  
6 you have some follow-up, or Mike or Theresa, or  
7 whoever wants to go, so we can all go home?

8 MS. CARNEY: I don't have anything.

9 MS. MARTINEZ: I have a couple quick  
10 follow-ups. I promise I'm not trying to stall.

11 REDIRECT EXAMINATION

12 BY MS. MARTINEZ:

13 Q. Very briefly, Mr. Muich, I just want to  
14 clarify a couple of questions that Counsel just asked  
15 you. The first, I want to make sure that 2005 was the  
16 year that you applied for this homicide -- strike that,  
17 please. Homicide investigator certification, correct?  
18 So that would be when your 100 year -- strike that as  
19 well, please. So that would be when your 100 hours  
20 clock started?

21 A. I don't know the exact date when I actually  
22 applied, but I would say it would've had to have been  
23 shortly after I became a detective in December 2004.  
24 Because the department wouldn't have allowed me to, you  
25 know --

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1 Q. Right.

2 A. -- being a lead investigator if I wasn't on  
3 the course to get my lead certification from the state  
4 of Illinois.

5 Q. Okay. And then my second question is, the  
6 Princeton five day training that you mentioned, which  
7 year was that? I missed that.

8 A. I believe it was 2009 or '10.

9 Q. That's okay.

10 A. But I -- I don't recall without looking at my  
11 certification.

12 Q. Okay. Third question. Are you aware sitting  
13 here right now that Demetrius Johnson is not Black  
14 Hispanic?

15 A. I believe the CPD reports, and I would have to  
16 go back to it, stated that he was a male Black. But  
17 again, I would have to go back to the CPD reports to  
18 actually find out where I -- I found that information.

19 Q. Okay. And then my final question for you,  
20 sir, is, did you ever attend a training on homicide  
21 investigations that taught standard policing practices  
22 in 1991?

23 MR. BRUEGGEN: Objection. Asked and answered.  
24 Go ahead, sir.

25 THE WITNESS: I did not.

<p style="text-align: right;">Page 290</p> <p>1 MS. MARTINEZ: Okay. Thank you, sir. That's</p> <p>2 all I have for you.</p> <p>3 THE WITNESS: Thank you, ma'am.</p> <p>4 MR. BRUEGGEN: Mike, Theresa, anything?</p> <p>5 MS. CARNEY: No, I'm good. Thank you.</p> <p>6 MR. SCHALKA: I'm good, too. And we can</p> <p>7 reserve signature.</p> <p>8 THE REPORTER: Okay. And then I'll just go</p> <p>9 ahead and get orders really quickly while we're</p> <p>10 still on record. Ms. Martinez, how would you like</p> <p>11 your copy?</p> <p>12 MS. MARTINEZ: Electronically.</p> <p>13 THE REPORTER: Okay. Would you like a copy of</p> <p>14 the video?</p> <p>15 MS. MARTINEZ: Yes, please.</p> <p>16 THE REPORTER: Okay. And then I'll go to you,</p> <p>17 Mr. Brueggen?</p> <p>18 MR. BRUEGGEN: Yes. Can I get an electronic</p> <p>19 copy as well, PDF, whatever your standard electronic</p> <p>20 format is with the exhibits attached? Do you have</p> <p>21 the exhibits?</p> <p>22 THE REPORTER: I don't have them yet, but I put</p> <p>23 my e-mail --</p> <p>24 MR. BRUEGGEN: Okay. You'll get them. You can</p> <p>25 attach --</p>	<p style="text-align: right;">Page 292</p> <p>1 CERTIFICATE OF DIGITAL REPORTER</p> <p>2 STATE OF ILLINOIS</p> <p>3</p> <p>4 I do hereby certify that the witness in the foregoing</p> <p>5 transcript was taken on the date, and at the time and</p> <p>6 place set out on the Title page hereof by me after first</p> <p>7 being duly sworn to testify the truth, the whole truth,</p> <p>8 and nothing but the truth; and that the said matter was</p> <p>9 recorded digitally by me and then reduced to typewritten</p> <p>10 form under my direction, and constitutes a true record</p> <p>11 of the transcript as taken, all to the best of my skills</p> <p>12 and ability. I certify that I am not a relative or</p> <p>13 employee of either counsel, and that I am in no way</p> <p>14 interested financially, directly or indirectly, in this</p> <p>15 action.</p> <p>16</p> <p>17</p> <p>18 <i>Kyra Tate</i></p> <p>19</p> <p>20</p> <p>21</p> <p>22 KYRA TATE,</p> <p>23 DIGITAL REPORTER / NOTARY</p> <p>24 COMMISSION EXPIRES ON: 01/09/2024</p> <p>25 SUBMITTED ON: 11/27/2023</p>
<p style="text-align: right;">Page 291</p> <p>1 MS. MARTINEZ: Oh, okay. I --</p> <p>2 MR. BRUEGGEN: -- Okay.</p> <p>3 MS. MARTINEZ: -- I can e-mail them to you</p> <p>4 here.</p> <p>5 THE REPORTER: Yeah, I put my e-mail --</p> <p>6 MS. MARTINEZ: Okay.</p> <p>7 THE REPORTER: -- in the chat.</p> <p>8 MS. MARTINEZ: Perfect.</p> <p>9 THE REPORTER: Would you like a copy --</p> <p>10 MS. MARTINEZ: Okay.</p> <p>11 THE REPORTER: -- of the video?</p> <p>12 MR. BRUEGGEN: I do not need a copy of the</p> <p>13 video now. Thank you.</p> <p>14 THE REPORTER: Okay. Ms. Carney?</p> <p>15 MS. CARNEY: Nothing from me. Thanks.</p> <p>16 THE REPORTER: Okay. And Mr. Schalka?</p> <p>17 MR. SCHALKA: Nothing from me.</p> <p>18 THE REPORTER: Okay. And with that, I will</p> <p>19 take us off the record. The time is 5:38 p.m.</p> <p>20 Central.</p> <p>21 (DEPOSITION CONCLUDED AT 5:38 P.M.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	



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## Z

**zeros** 43:10

**Zoom** 9:19  
10:2 128:16  
189:8